SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 — Case No. 11004-2012

BETWEEN:

SOLICITORS REGULATION AUTHORITY — Applicant

and

ANTOINETTE OLIVIA TAYLOR — Respondent

Before:

Mrs K. Thompson (in the chair)
Mr L. N. Gilford
Mr D. Gilbertson

Date of Hearing: 29th November 2012

Appearances

Mr Geoffrey Williams QC of The Mews, 38 Cathedral Road, Cardiff CF11 9LL for the Applicant.

The Respondent appeared in person and was not represented.

JUDGMENT

Allegations

1. The allegations against the Respondent were that she:

1.1 withdrew monies out of client account contrary to Rule 22(5) Solicitors' Accounts Rules 1998 ("SAR");

1.2 failed to maintain properly written up books of account contrary to Rule 32 SAR;

1.3 failed to remedy breaches of SAR promptly upon discovery contrary to Rule 7 SAR;

1.4 failed to adequately account to a client contrary to Rule 1.05 of The Solicitors' Code of Conduct 2007 ("the Code");

1.5 failed to notify SRA that she had a cash shortage on her client bank account contrary to Rule 20.04 of the Code;

1.6 failed to notify her Professional Indemnity Insurers that she had a cash shortage on her client bank account contrary to Rule 20.07 of the Code;

1.7 failed to notify mortgagee clients of material information contrary to Rule 4.02 of the Code;

1.8 failed to provide a mortgagee client with a good standard of service contrary to Rule 1.05 of the Code;

1.9 improperly acted in a share sale transaction without paying proper heed to the professional guidance contrary to Rules 1.03, 1.05 and 1.06 of the Code;

1.10 made an untrue statement in an application for Professional Indemnity Insurance contrary to Rule 1.06 of the Code.

Documents

2. The Tribunal reviewed all of the documents submitted by the Applicant and the Respondent, which included:

Applicant:

- Application dated 31 May 2012;
- Rule 5 Statement and exhibit "GW1" dated 31 May 2012;
- Note and exhibits dated 23 November 2012;
- Authorities;
- Bundle of Respondent's documents (not agreed) various dates;
- Schedule of Costs dated 27 November 2012

Respondent:

- Respondent's Reply to the Rule 5 Statement and exhibit bundle undated and unsigned;
- Testimonials

Factual Background

3. The Respondent was admitted as a solicitor on 15 March 1991. Her name remained on the Roll of Solicitors.

4. At all material times the Respondent carried on practice on her own account as a member of Taylor Bridge LLP Solicitors at 1 The Colour House, 7 Bell Yard Mews, 159 Bermondsey Street, London SE1 3UW and subsequently as a sole director when the firm became a limited company.

5. On 26 January 2011 an inspection commenced of the Respondent's books of account by a Forensic Investigation Officer ("FIO") of the Applicant, Mr Howells. A Forensic Investigation ("FI") Report was produced dated 23 November 2011.

6. The FI Report exemplified five separate client matters and a regulatory issue:

Ms AL

7. The Respondent acted for Ms AL in a property purchase transaction (E Cottage). The Respondent confirmed her instructions to Ms AL on 25 June 2009.

8. The purchase price was £237,000 and a 10% deposit was payable. Contracts were exchanged on 18 November 2009 and the transaction was completed on 27 November 2009.

9. The Respondent was also instructed by Abbey which was making a mortgage advance to Ms AL.

10. On 7 September 2009 the Respondent sent Ms AL a completion statement. The Respondent had made a mistake on the completion statement by requiring Ms AL to pay the sum of £31,743.50 to complete. The Respondent should have requested the sum of £44,408.50.

11. Between 16 and 20 November 2009 Ms AL made payments to the Respondent totalling £31,743.50. The net mortgage advance of £116,115 was received by the Respondent on 27 November 2009. On the same date the Respondent paid the vendor's solicitors the sum of £213,326.30 to complete. As the Respondent had requested too little from Ms AL the effect of completing the purchase was to create a shortage on client bank account in the sum of £8,667.80.

12. The client ledger produced to the FIO by the Respondent showed that a transfer from office bank account to client bank account in the sum of £8,667.80 had been affected on 27 November 2009 so as to clear the shortage. The relevant bank statements established that there was no corresponding movement of funds at the bank.

13. The file contained an amended completion statement dated 28 November 2009 which showed the sum of £11,250 being owed to Ms AL. The sum was paid to Ms AL who banked the cheque on 16 December 2009. This had the effect of increasing the client account cash shortage to £19,917.80. The client ledger again recorded an office account to client account transfer to cover the amount but there was no corresponding movement of funds at the bank.

14. On 31 December 2009 the Respondent paid a Land Registry fee in the sum of £280 from client account which further increased the cash shortage to £20,197.80. The client ledger recorded an office to client account transfer to cover the amount but there was no corresponding movement of funds at the bank.

15. As a result of the three "transfers" the cash shortage on client account was not apparent to the FIO from his inspection of the ledgers.

16. In interview the Respondent stated that:

- She had trusted her book keeper to do the book entries; and
- She had not looked at the ledgers.

17. The three corrective "transfers" had shown up as uncleared items on the Respondent's bank reconciliations for January and February 2010; the "transfers" purportedly effected between November 2009 and December 2009 had not actually been carried out until over one year later. The file contained an undated ledger print out which revealed the cash shortage.

18. A document entitled "Individual Clients Ledger Card Client A/C Side" informed the Respondent that there was a cash shortage on the client account in the sum of £23,726.80. On 20 January 2010 the Respondent wrote to Ms AL and requested the appropriate funds. The letter:

- was written after the FIO had brought the cash shortage to the attention of the Respondent;
- referred to an enclosed revised completion statement; and
- referred to a gross breach of the SAR.

19. Ms AL then made repayments to the Respondent of £5000 on 21 January 2010, £1000 on 26 January 2010, £5000 on 23 March 2010 and £5000 on 27 March 2010. Other payments were made and Ms AL repaid the amount claimed from her.

20. The Respondent had therefore been aware of the shortage by 20 January 2010 at the very latest.

21. When the Respondent wrote to Ms AL on 20 January 2010 and requested the sum of £23,726.30, the amount included £2,370 for Stamp Duty but on 5 March 2010 it became apparent that Ms AL had paid the Stamp Duty herself. The client ledger for Ms AL did not contain any entry to confirm that the Respondent had paid anything by

way of Stamp Duty and the Respondent could offer no proper explanation for this to the FIO.

22. A meeting took place between, inter alia, the Respondent and Ms AL on 13 February 2010. The funds in question were discussed and Ms AL said that she needed more time to raise the funds. The Respondent emphasised that "it is imperative that I appear to be doing the correct thing as a Solicitor with an overdrawn client account".

23. On 26 January 2010 the Respondent had advised Ms AL that if the shortage could not be replaced within fourteen days then she would have to inform the Law Society.

Ms NB and Mr JH

24. The Respondent acted for Ms NB and Mr JH in their purchase of E Cottage pursuant to instructions received in February 2010. The Respondent also acted for the mortgagee TMW pursuant to instructions received in March 2010. The contract price was £910,000 and the deposit payable was £91,000.

25. The vendor Mr DV initially represented himself but subsequently instructed GCL Solicitors to act for him. Ms NB was the cousin of Mr DV.

26. On 11 April 2010 Ms NB sent an email to the Respondent and stated that AWB Solicitors had sent "our deposit" to GCL Solicitors in the sum of £357,012.75. GCL were to send the funds to the Respondent for completion the following day. A file note dated 12 April 2010 recorded that Ms NB and Mr JH had stated that "the deposit" was being paid from their own resources and not from any further borrowings.

27. On 12 April 2010 the Respondent received into her client account the mortgage advance of £591,435 from TMW and £356,102 from GCL Solicitors acting for the vendor. On the next day the Respondent made a payment back to GCL of £532,987.25. Exchange of contracts and completion were effected on 14 April 2010 at the agreed price of £910,000. The payment of £910,000 was made by two separate payments being the payment to GCL Solicitors of £532,987.25 and a payment to AWB Solicitors in the sum of £377,012.75 on 14 April 2010.

28. The payment to AWB Solicitors was purportedly in relation to the discharge of a mortgage over the property but as at 13 April 2010 no adverse entries had been made against the property. On 8 April 2010 a protective entry had been made with respect to an intending Charge. On 14 April 2010 the Respondent sent an email and requested confirmation of the priority search and a clear Certificate of Title was issued by the Respondent to TMW.

29. Pursuant to the terms of her instructions from TMW the Respondent was bound by the terms of the Council for Mortgage Lenders' Handbook and as such, the Respondent was obliged to communicate all material facts to TMW. Such duty also arose under the general law. In due course the Respondent was asked to give a statement to the Police as the transaction had not been registered and there was the appearance of a sham transaction.

30. The Respondent also acted for Ms NB and Mr JH in their purchase of a second property, K Grove, pursuant to instructions received on 30 April 2010 and acted for the same mortgagee TMW pursuant to instructions received on 27 April 2010. The contract price was £924,000 and exchange of contracts took place on 12 May 2010. The transaction was completed by a payment of £924,000 made on 12 May 2010.

31. A provisional completion statement on the file stated that the balance required to complete the purchase was £363,744. The mortgage advance was stated as being £601,215.

32. On 9 May 2010 Ms NB sent an email to the Respondent which stated that Mr DV owed Ms NB £370,000 and that repayment of the loan would be used to fund the purchase. The money would be coming from Richard Rooney & Co ("RR").

33. On 10 May 2010 the Respondent received the mortgage advance of £601,185 and on the same day received the sum of £364,500 from RR. On 12 May 2010 the Respondent paid £924,000 to Excel Law to complete the purchase.

34. The Respondent issued a clear Certificate of Title to TMW on 6 May 2010. The purchase transaction had not been registered.

Mr RM

35. The Respondent acted for Mr RM in his purchase of Flat 5 H View pursuant to instructions received on 30 June 2009. The Respondent also acted for the mortgagee BM pursuant to instructions received on 30 June 2009.

36. The contract price was £150,000 and the vendor was Rennov8 Property Developments Ltd ("RPD"), represented by Excel Law.

37. Exchange of contracts and completion took place simultaneously on 23 July 2009.

38. On 23 July 2009 the Respondent received the sum of £57,312 not from Mr RM but from the vendor company, RPD. The sum was aggregated with the mortgage advance of £94,215 which had been received on 15 July 2009, to achieve completion. RPD had also put the Respondent in funds for search fees to be incurred on behalf of Mr RM.

39. The instructions to the Respondent from BM made it clear that:

- the Council for Mortgage Lenders Handbook applied; and
- the purchase price stated in the offer (£150,000) was taken as the price actually being paid for the property.

40. These matters were in addition to the duties imposed upon the Respondent by the general law.

41. The transaction contained features which were indicative of potential mortgage fraud.

LTMD Ltd

42. The Respondent was instructed by LTMD in the sale of 74% of its shares to DTS Ltd pursuant to instructions received on 25 August 2010.

43. The Share Purchase Agreement ("the Agreement") detailed the purchase price for the shares which was £3,500,000. Prior to completion of the share sale the shares in LTMD were held as follows:

Mr AT	49%
Mrs ST	25%
RC Ltd	26%

44. Mr AT was the sole director. The shares being sold were those held by Mr AT and Mrs ST.

45. Payment for the shares was to be made as follows:

(a) £1,500,000 on the Agreement being signed;

(b) A further £1,000,000 within the next three months; and

(c) A further £1,000,000 within 6 months of the Agreement being signed.

46. The Agreement was signed on 15 September 2010. The signature of Mrs ST was witnessed by a Mr KV, an accountant.

47. On 15 September 2010 DTS paid the sum of £1,500,000 into the Respondent's client bank account. That sum was paid to Mrs ST in two tranches on 15 and 16 September 2010, the payments being made on the instructions of Mr AT.

48. DTS paid the remaining £2,000,000 by one payment into the Respondent's client bank account on 23 December 2010.

49. On the same day AT sent an email to the Respondent stating:

> "I need a huge favour plse [sic] today".

On the same date Mr AT and Mrs ST sent faxed instructions to the Respondent to send the sum of £1,580,000 to a bank in Dubai for the account of TNAMT Ltd. The balance after the deduction of fees was to be sent to Mrs ST.

50. The requested payment to Dubai was sent by the Respondent on 31 December 2010.

51. Mr KV was the auditor to LTMD and he referred LTMD to the Respondent. He was also, as understood by the Respondent, the accountant to DTS. The Respondent reported to Mr KV throughout the course of the transaction.

52. The Respondent's fee note was addressed to Mr AT and Mrs ST and was paid by a cheque drawn from a company unconnected with the transaction. The Respondent believed that Mr KV was a director of that company.

53. The Respondent sent an email to Mr KV on 23 August 2010 with respect to Mr MC who was purportedly advising DTS, two days before the commencement of the retainer with the vendors. The email:

(a) informed Mr KV that she had been thinking about using Mr MC as the other legal representative;

(b) expressed a view as to how "we" should instruct Mr MC on a limited basis; and

(c) stated that on that basis there would be "very little need" for Mr MC to contact the purchasers direct.

54. On 13 September 2010 the Respondent sent an email to Mr MC and stated that:

- the Agreement was bona fide and for value;
- the purchasers needed an independent solicitor confirming understanding of the Agreement; and
- the purchaser (or its controller Mr LG) did not want any communications sent to his address but only via Mr KV who would attend Mr MC's office along with the purchaser.

55. On 13 September 2010 the Respondent sent Mr MC an email stating that she had agreed the fee that he was to be paid at £500 plus VAT. Mr MC was to bill the purchaser care of the Respondent.

56. Mr MC met the purchaser Mr LG on 15 September 2010 and wrote to the Respondent on that day. He confirmed that he had not given any legal advice or checked identity. On the same day Mr MC advised the Respondent that his firm's name should be removed from the Agreement.

57. On 24 September 2010 the Respondent paid Mr MC's fee from funds held in her client account. Thus the vendors were paying the costs of the purchaser's solicitors for whatever work may have been done.

58. Particularly suspicious features of this transaction were:

(a) the payment to Dubai;

(b) the multiple roles played by Mr KV; and

(c) the dealings with Mr MC put the Respondent on clear notice that the fullest possible enquiries were needed to enable her to properly act either as she did or at all.

59. On the client file was a company search annotated to the effect that Mr LG owned 33% of DTS with the remaining 67% owned by an "offshore entity". There was no

documentary evidence on the file of the Respondent having made any enquiries as to the source of the funds paid into her client account by or on behalf of DTS.

60. In interview the Respondent stated:

- at the material times Mr KV had been her reporting accountant;
- Mr MC had been in partnership with the Respondent for ten years in the past;
- the Respondent could not recall having made any enquiries with respect to the payee in Dubai; and
- Aside from perusing company searches, the Respondent had made no checks with respect to the companies involved in the transaction.

Professional Indemnity Insurance ("PII")

61. The Respondent applied for PII for the insurance year 2010 to 2011. The proposal form was submitted electronically under the Respondent's name and was dated 16 August 2010.

62. At page 465, paragraph 4(a) of the proposal form, the Respondent stated that she had not been the subject of any investigation by the Applicant.

63. The Respondent stated that construction of the proposal form was not accepted.

64. On 23 July 2010 an Adjudicator of the Applicant resolved that disciplinary proceedings be taken against the Respondent and she was referred to the Tribunal and notified by letter dated 5 August 2010.

Witnesses

65. The FIO, Mr Howells gave evidence to the Tribunal.

66. Mr Howells confirmed the truth and accuracy of his Report dated 23 November 2011. He confirmed that he had been an FIO for eight years in the employ of the Applicant.

67. In relation to the cash shortage in the AL matter, Mr Howells said that he had calculated the repayment of the shortfall by having regard to the repayments shown on the ledger until they had amounted to the required sum of £20,197.80. He told the Tribunal that he could not see how the total repayments could have been made by May 2010 and maintained that the shortfall had not been repaid until November 2010.

68. Mr Howells confirmed that Mr Fidler in his PSU Report had not referred to any disclosure to him by the Respondent of the shortfall. He said that he believed that had Mr Fidler been aware of the shortfall he would have mentioned it. He said that the normal procedure was that Mr Fidler would have referred the matter to the FI Unit for investigation and to his knowledge, it had not been referred.

69. Mr Howells told the Tribunal that he had gone through the file of client AL with the Respondent at the time of the investigation and the first time he had seen the letter which the Respondent said she had sent to her insurer [AON] dated 17 February 2010

regarding the shortfall had been when he had received the Respondent's Response and exhibits. Mr Howells said that the Respondent had told him that she did not think she had notified her insurer and that if she had, there would have been a copy of the letter on the file. He confirmed that the record of his interview with the Respondent was a true record and at no time had the Respondent informed him that she had notified AON of the client account shortage.

70. Mr Williams referred Mr Howells to the "Instructions and Claims Declaration Form" to AON dated 1 September 2010 and signed by the Respondent. Mr Howells confirmed that the copy was a true copy and that the Respondent had clearly indicated on the form that there had been "No Claims" notified. He said that she could have ticked "Yes" and should have done so had she notified AON of the shortfall.

71. Mr Howells told the Tribunal that the first time he had seen the documentation produced by the Respondent regarding Ms NB and Mr JH had been when he had received the Respondent's Response. He said that he had not previously seen any evidence that TMW had been informed of the material facts but he had gone through the relevant files very carefully. Mr Williams referred him to his interview notes and Mr Howells told the Tribunal that the Respondent had never come back to him regarding disclosure to TMW by her. Mr Howells was referred to correspondence between him and the Respondent and he confirmed that he had asked her to address the TMW issue regarding E Cottage. He said that would have been the appropriate time for the Respondent to have looked at her file and by implication she must have done so to have replied to him but it was silent regarding TMW.

72. Mr Howells said that the Respondent had responded to his FI Report and in the penultimate paragraph she had stated that there was nothing to report to her lender client TMW.

73. In relation to the second property transaction for Ms NB and Mr JH, Mr Williams referred Mr Howells to the Respondent's letter dated 5 May 2010. In the FI Report Mr Howells said that he had referred to the only evidence of reporting to TMW by the Respondent which had been the Certificate of Title issued by her. He said that he had not seen the letter dated 5 May 2010 purportedly sent to TMW until he had received the Respondent's Response. Mr Howells confirmed that he had asked the Respondent why this transaction had not been reported to TMW and she had not reverted to him.

74. Mr Howells told the Tribunal that in relation to the PII proposal form to AON, the Respondent had mentioned to him an undated letter to AON from her and which she said she had sent in February 2011 yet that was six months after the date of the proposal form.

75. Mr Howells said that had any of the letters purportedly sent by the Respondent on the transactions referred to or in relation to the PII matter been brought to his attention, he would have been anxious to see them. He agreed that he had sent his interview notes to the Respondent for approval and had the letters been produced, it would have saved a great deal of time and would have shortened his Report. He told the Tribunal that there had been no suggestion that the letters existed when he had carried out his enquiries.

76. In cross examination the Respondent said that she had been very stressed when the interviews had begun and she had asked her assistant to attend and take notes. She referred Mr Howells to his evidence that the client account shortage had not been rectified until November 2010. The Respondent denied this and said that she had arranged for her book keeper to prepare an Excel spreadsheet which showed that the shortfall had been made good by May 2010. Mr Howells did not agree with the Respondent and told the Tribunal that his analysis had been correct; he referred to his calculations and said that the ledger account [for AL] had not been accurate and the book keeper could have miscalculated if he had based his calculations on the ledger.

77. The Respondent referred to the AL client ledger which she said showed a nil balance as at 28 May 2010. Mr Howells said that the ledger showed a nil balance at various dates and it was not clear why the particular date relied on by the Respondent was the May 2010 date and not another date. He said that the client also appeared to have continued paying in to the account which she must have done in order to rectify the shortfall.

78. The Respondent said that she had relied on her book keeper and the spreadsheet prepared by her book keeper which had been based on the 28 May 2010 date. She said that he had taken his figures from the bank statements. She told the Tribunal that she had told Mr Fidler of the Applicant's PSU about the client account shortfall at his visit to her firm in July 2010. Mr Howells said that he could not say whether that had happened or not.

Findings of Fact and Law

79. **Allegation 1.1: withdrew monies out of client account contrary to Rule 22(5) Solicitors' Accounts Rules 1998 ("SAR");**

Allegation 1.2: failed to maintain properly written up books of account contrary to Rule 32 SAR;

Allegation 1.3: failed to remedy breaches of SAR promptly upon discovery contrary to Rule 7 SAR;

Allegation 1.4: failed to adequately account to a client contrary to Rule 1.05 of the Solicitors' Code of Conduct 2007 ("the Code");

Allegation 1.5: failed to notify SRA that she had a cash shortage on her client bank account contrary to Rule 20.04 of the Code;

Submissions on behalf of the Applicant

Client AL

79.1 Mr Williams told the Tribunal that three cash shortages had arisen regarding client AL's matter and had not been remedied by the Respondent. He acknowledged that had not been deliberate but in error.

79.2 Mr Williams said that the Completion Statement had been incorrect and in error, instead of requesting £44,408.50 to complete she had requested the sum of £31,743.50

to complete. Mr Williams said that had resulted in a cash shortage of £8,667.80, which the Respondent had admitted in relation to allegation 1.1.

79.3 Mr Williams told the Tribunal that the Respondent's books of account showed an office to client transfer to rectify the shortage but he submitted that had been a "phantom" transfer; the shortage appeared to have been rectified on the day of completion but it had been a book entry only and there had been no corresponding movement of funds at the bank. Mr Williams referred the Tribunal to the client account ledger and the relevant bank statements in support of his submission. He said that the Respondent had accepted and admitted that allegation 1.2. The books of account did not show the true position.

79.4 There had been an amended Completion Statement and Mr Williams referred the Tribunal to that dated 30 November 2009. He highlighted at the foot of the Statement that it showed a refund which had been calculated as due to the client in the sum of £11,250. That sum had been paid out to the client and Mr Williams said that she had banked it on 16 December 2009. Mr Williams said that the refund to AL should not have been made by the Respondent as there was already a client account shortfall which increased to £19,917.80 as a result of the refund. There had been a further phantom transfer and the Respondent had admitted allegation 1.2 in that regard.

79.5 Mr Williams said that the third cash shortage had been the Land Registry fee of £280 which had been paid out and increased the client account shortfall to £20,197.80; the third example of allegation 1.1 and a further phantom transfer in relation to which the Respondent had admitted allegation 1.2.

79.6 Mr Williams referred the Tribunal to an undated document entitled "Individual Client's Ledger Card Client A/C Side" which had been annotated and showed a figure of £23,726.80 being the client account shortage although Mr Williams said that it was not evident whose handwriting it was or when it had been written. Mr Williams also referred the Tribunal to the firm's bank reconciliation. He said that a bank reconciliation would tell a solicitor if there was any missing money. In the "receipts" column it referred to "O/S TFR" and the sums would have told the Respondent what monies were outstanding and the amount of the shortfall. Mr Williams said that whilst the bank reconciliation was for January 2010 it had not been carried out until April 2010; that was not correct SAR accounting procedure and Mr Williams submitted was why the Respondent had not been alerted to the shortfall when she should have been.

79.7 Mr Williams told the Tribunal that allegation 1.3 was denied by the Respondent. He submitted that the earliest date by which the Respondent had become aware of the client account shortfall was January 2010 and he referred the Tribunal to her letter to AL dated 20 January 2010 which stated:

> "...
>
> As you will see there is a substantial shortfall and therefore amongst other things no money to complete the registration of the purchase.
>
> As I trust you will understand this is a gross breach of the client's accounts rules and therefore it is imperative that I recover these monies immediately".

79.8 Mr Williams said that the client had sent the Respondent a note which stated:

> "...I don't have all the money as I spent alot [sic] already..."

to which the Respondent had replied:

> "Hi. Very [sic] relieved to hear from you. The Law Society will simply close me down if that money is not returned so you need to beg, borrow or steal. I am really sorry about this but that money is not yours or mine to spend. I am relieved that u r [sic] a friend so I am trusting u [sic] will do whatever to see to the immediate return. Antoinette".

79.9 Mr Williams submitted that the Respondent fully appreciated the seriousness of the situation as at January 2010. He said that the Respondent wrote again to the client on 26 January 2010 and stated:

> "...
>
> I note that you have sent £5000 on Friday 22 January, but as you are aware, there is [sic] still insufficient monies for the purposes of discharging the shortfall.
>
> As explained, I must get the money back from you and the balance now stands at £18,726.30.
>
> This money must be repaid within **fourteen days** [emphasis added] of it being brought to your attention, which is by **03 February 2010** [emphasis added].
>
> As explained, if this does not happen then I have no alternative but to inform the Law Society as it is clearly other client's money and must be recovered. It will be considered theft and therefore it is likely the police will be called in.
>
> I trust that you will understand that this will have grave consequences and is certainly not something to be taken lightly".

79.10 Mr Williams submitted that the letter of 26 January 2010 was wholly inappropriate on the part of the Respondent; the shortfall was the Respondent's responsibility and not the client's. He said that there had been a meeting on 13 February 2010 between, inter alia, the Respondent and client AL and he referred the Tribunal to the Attendance Note of the meeting which stated:

> "...
>
> She [AL] advised, that her mother had been informed by her to expect a visit by the police given the contents of my letters...
>
> ...
>
> A [AL] advised that she had relied exclusively on my advise [sic] in the completion statement that was sent to her, indicating that [sic] the amount of money she needed to pay, and later she was advised by my firm that she had competed [sic]. Therefore when she received the cheque, she did query it, but given that she was advised by me that the £11,250.00 had been paid to her because there is [sic] likelihood that the bank forwarded more money than she had expected, she saw no reason why she should not bank the cheque.

...

I asked A how she did not know that she not paid enough money and moreover, surely alarm bells would ring when she received £11,250. Did nothing dawn on her?

...she felt somewhat aggrieved by my letters advising that I would need to consult the police etc given that this was s [sic] now deemed as theft.

I asked whether the mortgage broker could approach the Abbey and even get a personal loan...

A thinks she will approach her family members and friends for parts of the money, and she concedes that she will need approximately £17,000.00.

...

A then reiterated that she had tried to contact me on the phone as she would prefer to speak to me, given that she believed the next thing will be the police, and she wondered whether she would need to get her own solicitors. I advised that if the police were involved, then yes, I would be advising her to get her own Solicitor. So, the reason why I came to her house today, [sic] was as a friend not as a Solicitor, to try to work this whole unfortunate matter out.

...

I reiterated, that I would stay clear of notifying anyone for a further two and a half weeks but I will [sic] need to send her a letter confirming this, and I apologised if she does not like the tone of the letter, but as expressed earlier, it is [sic] imperative that I appear to be doing the correct thing as a Solicitor with an overdrawn client account".

79.11 Mr Williams submitted that the references by the Respondent to involving the police were curious. Client AL had made repayments to the Respondent. The shortfall had not been replaced until November 2010, twelve months after it had arisen and not May 2010 as submitted by the Respondent. The funds of all clients were at risk by a shortage on client account and Mr Williams said that clients would not have known that they were paying monies into a client account with a hole in it. Mr Williams submitted that the purpose of Rule 7 of the SAR was the protection of client money and the Respondent had not promptly rectified the shortfall on discovery, in breach of the Rule.

79.12 In relation to allegation 1.4, Mr Williams told the Tribunal that the Respondent had admitted that allegation in that she had failed to adequately account to the client. He referred the Tribunal again to the amended Completion Statement and the covering letter from the Respondent to AL dated 20 January 2010.

79.13 Mr Williams submitted that it was unacceptable to account to a client as the Respondent had done since clients were entitled to precision when solicitors accounted to them.

79.14 Similarly, Mr Williams submitted that the Applicant had not been notified of the cash shortage, in breach of Rule 20.04 of the SCC [the Rules dated 10 March 2007]. The Respondent denied allegation 1.5 and maintained that she had told Mr Fidler of the PSU about the cash shortage in July 2010. Mr Williams submitted that as the

Respondent had known of the shortfall since at least January 2010, even on her own case, the allegation was made out. He said that it was unacceptable to have left it until July 2010 in any event to have told an employee of the Applicant. Mr Williams said that the Respondent had paid nothing herself and had relied on her client.

79.15 Mr Williams asked the Tribunal to take into account the various authorities to which he referred:

In Bolton v The Law Society [1994] 1 WLR Sir Thomas Bingham M.R. stated in his Judgment:

> "It is required of lawyers practising in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness... Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect sever sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal.
>
> ...The second purpose is the most fundamental of all: to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth...".

79.16 In Weston v The Law Society [1998} CO/0225/98, Lord Bingham referred in his Judgment to Bolton and stated:

> "It was important to appreciate that in speaking of "trustworthiness" in that passage the court had in mind, of course, honesty, but also the duty of anyone holding anyone else's money to exercise a proper stewardship in relation to it. That was violated if one solicitor with a duty to see that the rules were observed failed to do so".

79.17 In Levy v Solicitors Regulation Authority [2011] EWHC 740 (Admin), Mr Justice Cranston stated:

> "30. A high standard is set in relation to solicitors' compliance with the Accounts Rules. That message was reiterated in Weston v Law Society. Rule 1 of the Code of Conduct for solicitor establishes the fundamental principles, which the Solicitors' Accounts Rules flesh out. Client money is sacrosanct, and a proper stewardship in relation to it is vital. Client money can only be used for that client's matters. There must be proper systems and controls to ensure compliance with the account [sic] rules and it is for a firm's principals to ensure that. Errors must be promptly remedied...Each of these simple rules is not merely good practice but is critical to the lawful operation of the client account by any solicitor".

79.18 In Adeeko v Solicitors Regulation Authority [2012] EWHC 841 (Admin), Mr Justice Treacy stated:

> "20. Reverting then to the facts of the case. I do not think that the tribunal was in any way wrong to consider that the breach of Rule 32 in this case was a serious one. Records had clearly not been properly kept, nor had the appellant

> appropriately recorded all his dealings with clients' money...It meant that when the investigating officer looked into the matter, the picture was thoroughly opaque, and he was unable to come to any conclusions as to what precisely had happened, or indeed as to the nature and extent of any improper conduct".

Mr Williams gave the example of the Respondent's ledgers and whether they were proper or not.

79.19 In Iqbal v Solicitors Regulation Authority [2012] EWHC 3251 (Admin), Sir John Thomas stated:

> "3. It is convenient to deal with the Accounts Rules First. There can be no doubt in my mind of the very substantial importance that ought to be accorded to the strictest possible compliance with the Solicitors [sic] Accounts Rules".

79.20 Mr Williams submitted that allegations 1.1 to 1.5 were very serious. He said that there had been a cash shortage for approximately twelve months and nothing had been done by the Respondent to remedy it; she had kept it from the Applicant despite having realised how serious it was.

80. **Allegation 1.6: failed to notify her Professional Indemnity Insurers that she had a cash shortage on her client bank account contrary to Rule 20.07 of the Code;**

PII and the cash shortage

80.1 Mr Williams told the Tribunal that the Respondent denied allegation 1.6. He said that her defence was her letter dated 17 February 2010 purportedly sent to her insurers but the Applicant did not accept the authenticity of that document. The Respondent had been invited to obtain the original correspondence and verification from the addressees but Mr Williams said that she had not done so.

80.2 Mr Williams referred the Tribunal to the FI Report in relation to the cash shortage, which stated:

> "39. During interview on 14 October 2011, Ms Taylor [the Respondent] said that she first became aware of the issue when her new book keeper brought it to her attention. Mr Howells noted that the file evidenced Ms Taylor's awareness of the seriousness of the shortage and asked whether Ms Taylor had notified the SRA or her professional indemnity insurer. She responded, "No, I don't think I did – would be on file if so – I thought I would be getting the money back".

80.3 Post the investigation Mr Williams said that the correspondence from the Respondent had been silent as to any notification to her insurers. The FIO had said that the Respondent had not replied to him in any way on this issue. Mr Williams referred the Tribunal to the Respondent's letter dated 19 December 2011 to the FIO in relation to which he said that there had been no mention of her having reported the matter to her insurers, only to Mr Fidler of the PSU. Mr Williams submitted that no such notification had been made by the Respondent to her insurers.

80.4 Mr Williams told the Tribunal that whilst he was not making an allegation of the Respondent having created false documents, it was a matter for the Tribunal to decide whether the documents amounted to a defence or not.

81. **Allegation 1.7: failed to notify mortgagee clients of material information contrary to Rule 4.02 of the Code;**

Allegation 1.8: failed to provide a mortgagee client with a good standard of service contrary to Rule 1.05 of the Code;

81.1 Mr Williams informed the Tribunal that the Respondent denied allegation 1.7 that she had failed to notify mortgagee clients of material information and she admitted allegation 1.8 that she had failed to provide a mortgagee client with a good standard of service.

81.2 Mr Williams said that these allegations related to the three conveyancing transactions involving the mortgagee clients TMW and BM. The Respondent had been instructed to act for the mortgagees in accordance with the Council for Mortgage Lenders' ("CML") Handbook.

E Cottage

81.3 In the E Cottage transaction, Mr Williams told the Tribunal that the purchase price was £910,000 with a deposit of £91,000. By email dated 12 April 2010, Ms NB had written to the Respondent and stated:

> "The bulk of our deposit £356,102.00 has been sent to you by GCL Solicitors this morning, I will transfer the £910.75 to you today as C [AWB Partnership] has made a mistake in the figures.
>
> Really, C should have sent the funds directly to yourself, however as he only told me on Friday that he was going away, i [sic] told him to send the funds to my cousin's solicitors as they are dealing with the transaction".

81.4 Mr Williams said that a "bookkeeping records: Deposits on 12.04.10" note recorded "GCL SOLICITORS LLP=£356,102-B&H [NB and JH] balance of monies from solicitors whom instructed on her off shore company matters. Clients confirmed monies not from other borrowing and waiting for signed documents".

81.5 Mr Williams referred the Tribunal to the FI Report, which stated:

> "49. The mortgage advance of £591,435.00 was received on 12 April 2010. £356,102.00 was received from GCL Solicitors (who were acting for the seller) on 12 April 2010. £532,987.25 was remitted to GCL Solicitors on 13 April 2010.
>
> 50. Simultaneous exchange and completion at a recorded purchase price of £910,000.00 occurred on 14 April 2010".

81.6 Mr Williams said that to effect completion, the Respondent had paid £377,012.75 to AWB Solicitors purportedly to discharge a charge on the property. He referred to a letter from AWB Solicitors to the Respondent dated 12 April 2010, which stated:

> "Re: Loan from Mr A-V
>
> At the request of Mr CC [C] of GCL Solicitors, we confirm that the amount required to redeem our Client's charge tomorrow, 13th April 2010 will be £377,012.75".

81.7 No adverse entries had been made since 13 April 2010 but Mr Williams said that notice had been given on the Land Registry Search document of an official search certificate dated 8 April 2010 having been issued to protect an intending charge in favour of a Mr A-V. The Respondent had issued a clear Certificate of Title to TMW dated 1 April 2010.

81.8 Mr Williams submitted that the Respondent should have notified her mortgagee client of the monies having come from the Solicitors for the vendors and not the purchasers. He submitted that was a warning sign of potential mortgage fraud and that the monies had then been added to funds and repaid to the vendor Solicitors the next day. The Respondent should have told her mortgagee client of the payment to AWB Solicitors. Mr Williams said that it was a suspect transaction and the mortgagee, TMW, had been unable to make an informed decision regarding its lending.

81.9 Mr Williams referred the Tribunal to the Respondent's Response and that she had referred to the protective entry having been "made by my firm in favour of [TMW] being the mortgagee client, again in accordance with my mandate".

81.10 Mr Williams said that had not been the case and the protective entry had been made in favour of Mr A-V. Whilst the Respondent maintained that she had kept TMW informed and relied on having advised them on the telephone on 12 April 2010 and her attendance note dated 12 April 2010 and letter dated 13 April 2010, Mr Williams told the Tribunal that those documents were not accepted by the Applicant and had not dealt with the monies coming from the vendor Solicitors. He submitted that there was no defence to the entirety of the allegation 1.7.

81.11 Mr Williams referred to the FIO's interview notes with the Respondent regarding the E Cottage transaction, wherein he asked the Respondent:

> "whether any of the above was reported to the lender client and if not why not;".

81.12 Mr Williams said that the FIO had not received any further response to that from the Respondent. He told the Tribunal that in her responses to the FIO's action points the Respondent had addressed the monies sent to AWB and why that had happened but her response had been silent as to any notification made to TMW. In her letter to the FIO dated 19 December 2011, Mr Williams said that the Respondent stated:

"...

I verily believed that the deposit and the balance of the proceeds were from the purchaser client and therefore did not see the need to report it to the lender clients".

K Grove

81.13 In relation to the second transaction for Ms NB and Mr JH, Mr Williams referred the Tribunal to a series of emails between Ms NB and the Respondent, which stated:

"Dear Antoinette [the Respondent]

My cousin DV borrowed £370k [sic] from me a few months ago before he sold his property to me, Anyway [sic], he is now in a position to pay me back the money that is owed to me, so I will use the funds for the deposit, also the money will be coming from Richard Rooney & Co Solicitors".

The Respondent's office replied:

"Dear N

The below is a little vague. Could you please contact Richard Rooney & Co Solicitors and ask them to confirm by e-mail/fax (ie urgently) to us the following:

...

(c) Details as to where these monies have come from..."

The final email from her office to the Respondent stated:

"Just had a call from a lady at Richard Rooney on behalf of DV saying that £364,500 is on its way to us from Bank of Scotland – I did try to press her for more detail ie the below but she said "I'm only the intermediary"..."

81.14 Mr Williams told the Tribunal that the Respondent issued a clear Certificate of Title dated 6 May 2010 which was faxed to TMW on the same date. Mr Williams submitted that the Respondent had been under a duty to have informed TMW that the funds to complete had come from the vendor Solicitors and not her own clients. In either transaction for Ms NB and Mr JH not a single penny had come from them. In relation to the Respondent's letter dated 5 May 2010 purportedly sent to TMW, Mr Williams said that letter was not accepted.

Flat 5, H View

81.15 Mr Williams told the Tribunal that on 21 July 2010 the Respondent had received into her client account the sum of £57,312, not from the purchaser client but from the vendors. This sum was aggregated with the mortgage advance and returned to the vendor Solicitors to complete. Mr Williams said that again there had been no monies from the client but a significant amount had come from the vendors. The vendors had also paid the search fees for the purchaser client. A clear Certificate of Title was issued by the Respondent dated 14 July 2009.

81.16 Mr Williams said that again, the instructions from the mortgagee, in this case BM, had been in accordance with the CML Handbook. The purchase price was £150,000 and the Special Conditions stated:

> "21 (V21) The purchase price stated in this offer is taken as the price actually being paid for the property. The customer must advise us immediately if this is not the case".

81.17 Mr Williams submitted that the Respondent failed to notify BM of any suspicious characteristics regarding the transaction for client RM. He said that the transaction had all the hallmarks of potential mortgage fraud and the same pattern as the two other transactions.

82. **Allegation 1.9: improperly acted in a share sale transaction without paying proper heed to the professional guidance contrary to Rules 1.03, 1.05 and 1.06 of the Code;**

82.1 Mr Williams referred the Tribunal to the share sale transaction involving LTMD for whom the Respondent acted. The Respondent denied allegation 1.9.

82.2 Mr Williams said that LTMD was selling 74% of its share capital to a company, DTS. Mr AT was the sole director of LTMD and with his wife Mrs ST they were selling shares for £3.5 million to be paid in three tranches. The Respondent received the first payment in September 2010 which was paid to Mrs ST in the sum of £1.5 million on the instructions of Mr AT. Mr Williams said that Mr AT had instructed the Respondent to pay all of the money to his wife. On 23 December 2010 the remaining £2 million had been received into the firm's client account.

82.3 Mr Williams referred to an email from Mr AT to the Respondent dated 23 December 2010, which stated:

> "Hi Antoinette [sic]
>
> Thanks for the email
>
> Have left a message for you to call me
>
> I need a huge favour plse [sic] today
>
> Regards
>
> A [Mr AT]".

The Respondent replied on the same date and stated:

> "Dear A
>
> ...The £2 million is in.
>
> Please confirm your instructions of where to send the remittance and let me have (as discussed) the written authority of you and S [Mrs ST] being the directors of the company LTMD".

82.4 Mr Williams referred the Tribunal to the joint instructions which were received by the Respondent, signed by Mr AT and Mrs ST and instructing the Respondent to pay the sum of £1,580,000 to a company TNAMT Ltd in Dubai. He confirmed that the payment out had been made on 31 December 2010 as shown by the Respondent's client account bank statement for the period 16 December 2010 to 15 January 2011.

82.5 Mr Williams said that the FIO had referred the Respondent to the Law Society's Money Laundering Practice note last updated in April 2009 which stated:

> "...You must ensure that you do not facilitate laundering even when money does not pass though [sic] your firm's accounts"

and

> "It goes on to note that warning signs include: "unusual payment requests", "payments to unrelated third parties"..."

and

> "instructions changed without a reasonable explanation".

In the FI Report, it stated:

> "127. ...it will also be noted that the instructions from AT that all monies be transferred to his wife's sole account appear to have suddenly changed, without any explanation recorded on file, to the effect that £1,580,000 be transferred to a bank account in Dubai under the name of TNAMT Ltd. These are warning signs noted in the above-mentioned Law Society practice note".

82.6 Mr Williams submitted that at one stage there had been a clear connection between the purchaser of the shares and the company in Dubai to whom the monies had been sent but the exact connection was not known. The FI report further stated:

> "132. Mr Howells noted that the instructions as to how to remit the sale proceeds altered very suddenly and, on 23 December 2010, on receipt of £2,000,000.00, instructions were given to send £1,580,000 to TNAMT Ltd in Dubai (instead of remitting the entire proceeds to ST). Mr Howells asked, "Did you look into it or verify the beneficiary?" Ms Taylor replied, "I don't think I did. I think I asked about the purpose and had a conversation with K [Mr KV]. I was made to understand that it was to purchase some property in Dubai". Mr Howells asked, "Did you undertake any due diligence on the company itself?" Ms Taylor replied, "No, I don't think so".

82.7 Mr Williams submitted that it had been a very suspicious transaction, contrary to her professional guidance and the Respondent should not have sent the funds to Dubai. He said that the Respondent had provided banking facilities for Mr AT and Mrs ST; it should have been them sending the funds to Dubai and not the Respondent. The degree of suspicion was heightened by the involvement of Mr KV. Mr Williams said that he had referred LTMD to the Respondent as a client and he was also the accountant for the purchaser, DTS. The Respondent had reported to Mr KV and her

fees had been paid by a company not involved in the transaction but of which Mr KV was a director.

82.8 Mr Williams told the Tribunal that Mr KV had also been involved in the role taken on by Mr MC, a solicitor with whom the Respondent had previously been in partnership. He referred the Tribunal to an email from the Respondent to Mr KV dated 23 August 2010, which stated:

> "Dear K
>
> I am sending you this email as promised on Friday last.
>
> I hope to get a draft of the agreement to you by Wednesday.
>
> ...
>
> I have also been thinking about the extent of using MC for the other legal representative and I think that we should instruct M to merely certify that he has advised the purchasers on the agreement but I draft the agreement etc. That way there will be very little need for M to contact the purchasers direct...".

82.9 Mr Williams submitted that it was not for the Respondent to choose a solicitor for the other side in the transaction and the email showed that the Respondent had done exactly that; the instruction was from the Respondent and Mr KV and there were very limited parameters in order to limit the contact between Mr MC and those for whom he would be acting. The Respondent wrote to Mr MC by email dated 13 September 2010 and stated:

> "Dear M
>
> I may have mentioned the above but I have now prepared a share purchase agreement for LTMD (the vendor) and DTS Limited (the purchaser). Both company's [sic] know each other well and the agreement is a mutually consensual arrangement which is being fomalised with the guidance of their company accountants AV ltd – reference KV. I can confirm that it is a bona fide agreement for value.
>
> Where do you come in? [emphasis added]
>
> The purchasing company needs a letter from independent solicitors confirming that they understand the terms of the agreement and the solicitors need to witness the purchasers signing of their part of the agreement.
>
> If you accept, I suggest you devote an hour (maximum) to attend to the purchasers [sic] director Mr LG and to hand to him a letter confirming your meeting and certifying his understanding – obviously to the best of your ability and witness his signing of his part. I shall email you the Share purchase Agreement if you are able to act.
>
> I shall be witnessing the signing of the Vendors [sic] part.

I have asked Mr G [LG] to bring with him identification.

You should note that the contents of the agreement is [sic] sensitive and he [Mr LG] does not want any communications to be sent to his address save for via the accountants KV. This is why I suggested you meet with Mr G at your office. Mr G shall attend with his accountant KV.

That said the purchaser would like to meet at your office on Wednesday 15 September at 11am. Can you do this?".

82.10 Mr Williams submitted that the independence of Mr MC had been interfered with and constrained by the Respondent and there had been an element of secrecy on the part of the purchaser Mr LG. Further, the Respondent had agreed Mr MC's fees in the sum of £500 plus VAT which she stated to him:

"...should be no more than 2 hours of your time".

A meeting took place and Mr MC wrote to the Respondent by letter dated 15 September 2010 which stated:

"I enclose the following:

Letter confirming witnessing the agreement

Certified copy of Mr G's passport and driving licence".

82.11 Mr Williams referred the Tribunal to the letter from Mr MC dated 15 September 2010 and confirming his witnessing of the agreement which stated:

"I met Mr G for the first time today and have been shown what appears to be his passport and other documentation. The photograph which is part of the passport shows a likeness to Mr G.

I have not taken any steps to check that the passport is a genuine current document.

Mr G read the document in my presence and Mr G confirmed that he understands the terms of the agreement...

I confirm that I have not given legal advice on the purchase of the Company and have not made any enquiries as to the [sic] whether the contents of the Sale Agreement are correct. I have not advised whether the Agreement is in the correct format and have not advised on any of the implications or liabilities which may arise from entering in to the Agreement.

I have only witnessed Mr G's signature and he has confirmed to me that he understands the agreement and its content".

82.12 Mr Williams submitted that it was evident that Mr MC had not advised the purchaser Mr LG on the transaction at all. In relation to the agreement, Mr Williams said that Mr MC had raised objections in an email to the Respondent dated 15 September 2010, which stated:

"Antoinette

I am only advising on the signature.

I see that I [sic] shown on the agreement as the purchasers [sic] solicitor. I am not the Purchasers [sic] solicitor as I have not advised on the content of the document. My firms [sic] name must be removed from the document".

82.13 Mr Williams told the Tribunal that Mr MC had been paid by the Respondent by cheque from her client account. He referred the Tribunal to the FI Report which stated:

"129. During interview on 14 October 2011, Ms Taylor explained that she knew MC because she had been a partner with him at H&A for over 10 years, and that the matter was referred to her by KV...

131. ...Mr Howells asked if two hours at most was enough for MC to read the agreement and adequately advise DT [DTS] on its terms. Ms Taylor said, "I would assume so – he was very experienced and if he didn't he would have let me know". She added that she felt more comfortable because of the involvement of Mr V [KV]...

...

136. Mr Howells...asked, "Did you undertake any further checks into the transaction or the parties?" Ms Taylor said, "I don't think so". Earlier, in relation to the transaction generally, she had noted, "I met A [AT] and L [LG] at K's [KV] offices and it was evident that they were buddies".

82.14 Mr Williams referred the Tribunal to the Respondent's Response in relation to this transaction. He said that the Applicant did not accept the Respondent's version of events regarding the transaction or that:

"...All negotiations and communications were transparent...".

83. **Allegation 1.10: made an untrue statement in an application for Professional Indemnity Insurance contrary to Rule 1.06 of the Code.**

83.1 Mr Williams told the Tribunal that the Respondent denied allegation 1.10. He referred the Tribunal to the 2010/2011 PII proposal form, which stated:

"4 General questions

Has the firm or any prior Practice or any present or former Principals, Partners, members, Directors, Consultants and employees thereof:

a Been the subject of an OSS/CCS/LCS investigation that has been upheld, or any investigation or intervention by any regulatory department of the Solicitors Regulation Authority or any other recognised body?".

The Respondent had replied "No" to that question. She had also signed the form electronically and it was dated 16 August 2010. The Declaration stated:

> "Is any Principal, Partner, Director or Member aware, after enquiry, of any loss or circumstance which may give rise to a loss being sustained or claim being made against or involving any person or persons to be included in this insurance, their predecessors in practice or any past Partners, Directors or Members, where such has not been previously notified to past or present insurers?"

to which the Respondent had replied "No".

83.2 Mr Williams submitted that the Respondent had not given true answers; there had been an adverse decision against her in July 2010 and he referred the Tribunal to the Adjudicator's First Instance Decision dated 23 July 2010 when the Respondent's conduct had been referred to the Tribunal. The Respondent sought to rely on an undated letter to AON which referred to the previous disciplinary proceedings. The FI Report stated:

> "158. This matter was raised with Ms Taylor by email dated 3 November 2011 and her response is attached as Appendix H138 (marked for clarity). Ms Taylor notes, in relation to the decision to refer to [sic] her conduct to the SDT, that the case had not yet at that point been determined but notes that she did notify AON in any event, around February 2011. In relation to the PSU visit, Ms Taylor explains that she understood the visit to be "routine" and "therefore was not something exceptional for the purposes of notifying the insurers".

83.3 Mr Williams submitted that if there had been disclosure, it had not been until months later and the PII proposal form was incorrect. He said that the undated letter to AON was not accepted by the Applicant. Mr Williams referred to the PSU visit which had taken place in July 2010. That had also been referred to on the proposal form and the Respondent had answered in the negative, namely that she had not received a monitoring visit from the PSU.

Submissions on behalf of the Respondent

83.4 The Tribunal informed the Respondent that she could make her submissions from the witness box, having taken the oath if she so wished. The Respondent did not choose to do so. The Respondent wanted her husband, who was with her in court, to present her case for her. The Tribunal informed the Respondent that her husband could sit with her and help and assist her as her Mackenzie friend. The Respondent confirmed she would proceed on that basis.

83.5 The Respondent referred the Tribunal to the letters which the Applicant had not accepted and which had been produced post the investigation. She told the Tribunal that a lot of filing was done separately to the client's files including insurance. She said that there had been a separate insurance file which would have included the PII documentation.

83.6 The Respondent told the Tribunal that she had not realised the gravity of the FIO's visit to her firm. She had assumed that it concerned the August 2011 Tribunal proceedings and not that it was a completely separate investigation. The Respondent

told the Tribunal that she believed the visit was to review files and she had therefore not been as focussed as she should have been. It was not until the Respondent had received notification of the current Tribunal proceedings that she said she had realised how serious the situation was and she had then prepared her defence including checking all of her files including those for her insurance and mortgagee files.

83.7 The Respondent referred the Tribunal to her Response and exhibit bundle upon which she relied.

83.8 In the AL matter the Respondent said that with regard to payment of the Stamp Duty and her request for that from the client, the fees needed paying and she would not have written a client account cheque to pay them as she knew the client account was overdrawn. She told the Tribunal that it was her understanding that the shortfall had been remedied by 28 May 2010 based on her book keeper's spreadsheet which he had prepared based on the bank statements.

83.9 In relation to notifying the shortfall the Respondent said that she had told Mr Fidler of the Applicant's PSU and that she had shown him the amended Completion Statement for client AL. She said that they had discussed client AL's matter as he had raised with her the incorrect bank charges. She referred the Tribunal to her letter to AL dated 31 August 2010 regarding the bank charges issue which she submitted evidenced that Mr Fidler had seen the file. In response to a question from the Tribunal, the Respondent acknowledged that her letter dated 31 August 2010 did refer to money still being due from the client and it appeared from that that the shortfall was still outstanding as at that date rather than May 2010. The Respondent told the Tribunal that she had still been undertaking work for the client hence the requirement for further monies.

83.10 The Respondent told the Tribunal that she denied allegation 1.7 regarding her mortgagee clients. She said that she had discharged the charge because she had been uncomfortable regarding the vendor. She had tried on a number of occasions to meet the clients but they had failed to attend. The Respondent told the Tribunal that she had discharged the mortgage herself rather than sending the monies to the vendor Solicitors to discharge it. The Respondent submitted that she had informed TMW of the monies paid to AWB and she referred the Tribunal to her letter to TMW dated 13 April 2010 and her Telephone Attendance Note dated 12 April 2010.

83.11 The Respondent referred to the LTMD transaction and she told the Tribunal that Mr KV was her accounts auditor. He had introduced LTMD and Mr AT and Mrs ST to her. She said that they had met at the offices of Mr KV and she had also met the purchaser Mr LG. It was clear that they were friends.

83.12 The Respondent said that the arrangement was for a "friendly solicitor" to be found which she told the Tribunal would have been recorded in her notes as she took very detailed notes. Mr MC had been her partner for ten years and she submitted that it was not unusual for her to have asked him to act or to have kept his charges low. She acknowledged that Mr KV had been very keen that all correspondence be sent care of his office and that had been naive on her part. The Respondent told the Tribunal that she had trusted the whole transaction and the money coming in to her client account.

She said that Mr MC's limited role had only become apparent after the transaction had concluded. She confirmed that she had drafted the agreement using a precedent.

83.13 In relation to her comments in interview with the FIO, the Respondent said that she had admitted being naive. She told the Tribunal that the FIO had referred to the monies and that they might as well have been "Mafia money" going through her client account [this was denied by the FIO]. As a result, she said that she had felt numb. She told the Tribunal that she had been given a laptop as a gift by Mr AT but that it had broken. She said that she believed the companies had since gone into liquidation.

83.14 With hindsight the Respondent acknowledged that it had been wrong for fees to have been paid by Mr KV. She had not questioned it but agreed that it was not acceptable. She agreed that £500 plus VAT now seemed excessive for Mr MC's fees bearing in mind that all he had done was witness a signature.

83.15 The Respondent referred the Tribunal to the PII proposal form and said that she relied on the undated letter to AON which she had located in her insurance file. The Respondent said that at the material time she had believed it was correct to say "No" to the relevant questions on the form based on her interpretation of the questions. She referred the Tribunal to correspondence with the FIO by email dated 3 November 2011 and her explanation for her conduct. She said that she had honestly believed that she was innocent in relation to the previous Tribunal proceedings which resulted from the Adjudicator's Decision of 23 July 2010. Her interpretation of the question in the proposal form was that she was not "subject to a reprimand" until the Tribunal had heard the case and decided against her.

83.16 The Respondent told the Tribunal that she had written to AON during the term, in approximately February 2011 [the undated letter]. She also referred to the PSU visit in July 2010. She said that she understood the visit to have been a routine visit as she had experienced similar visits at her last firm. It had therefore not been "something exceptional" for the purposes of notifying the insurers.

83.17 With hindsight the Respondent acknowledged that her interpretation had been incorrect but she said that it had been what she had believed at the material time. In response to a question from the Tribunal, the Respondent accepted that the Adjudicator's Decision had pre-dated the completion of the proposal form and that the PSU visit had pre-dated completion of the form.

The Tribunal's Findings

83.18 The Tribunal applied its usual standard of proof namely beyond reasonable doubt. It had listened very carefully to the representations on behalf of the Applicant and by the Respondent and it had read in detail all of the documents to which it had been referred.

Allegations 1.1 and 1.2

83.19 The Tribunal found allegations 1.1 and 1.2 proved on the facts and on the documents. It noted that the Respondent had admitted allegations 1.1 and 1.2.

83.20 Monies had been withdrawn from the firm's client account which had resulted in a substantial shortfall on the client account. As the firm's Principal, the Respondent was responsible for ensuring proper compliance with the SAR and in particular, for protecting her clients' money. Rule 22 (5) of the SAR required that money withdrawn in relation to a particular client or from a general client account must not exceed the money held on behalf of that client in all the solicitor's general client accounts. There had been a clear breach of that rule.

83.21 In addition, the Tribunal found that the Respondent had failed to maintain properly written up books of account contrary to Rule 32 of the SAR. The Tribunal noted that the shortages appeared to have been rectified but had been book entries only and there had been no corresponding movement of funds at the bank; these were the "phantom transfers" referred to by Mr Williams. The books of account had not shown the true position.

Allegation 1.3

83.22 The Tribunal found allegation 1.3 proved on the facts and on the documents. The Respondent had denied allegation 1.3.

83.23 The Tribunal had found Mr Howells, the FIO, to have been a credible witness. His evidence was that the client account shortfall had not been remedied until November 2010 whereas the Respondent maintained that the shortfall had been remedied by the end of May 2010. Whether the earliest remedy had been May, the Tribunal found that the shortfall had still not been remedied until sometime after the breach had occurred in November 2009 and according to the Respondent's evidence, had only come to her attention in January 2010.

83.24 The Tribunal had also had regard to the Respondent's letter to client AL dated 31 August 2010 which referred to AL still owing money.

Allegation 1.4

83.25 The Tribunal found allegation 1.4 proved on the facts and on the documents. The Respondent had admitted allegation 1.4.

83.26 The Respondent had failed to adequately account to client AL and had submitted an incorrect Completion Statement which she admitted having done. The Tribunal had had regard to the Respondent's letter to client AL dated 20 January 2010 in which she had stated "As I trust you will understand this is a gross breach of the client's accounts rules and therefore it is imperative that I recover these monies immediately". The error however had been that of the Respondent and not the client.

Allegation 1.5

83.27 The Tribunal found allegation 1.5 proved on the facts and on the documents. The Respondent denied allegation 1.5.

83.28 The Tribunal noted that the Respondent maintained that she had informed the Applicant of the shortfall via Mr Fidler of the Applicant's Practice Standards Unit in

July 2010. There had however been no mention of the client account shortfall in his Report. Irrespective of that however, the Tribunal heard on the Respondent's own evidence that she had known of the shortfall since January 2010. The Tribunal was satisfied that there had been no other correspondence between the Respondent and the Applicant regarding the shortfall.

83.29 Rule 20.04 of the SCC required a Principal, the Respondent, to report such matters to the Applicant and the Tribunal was mindful of the fact that the purpose of the rule was to protect the public and the integrity of the profession.

Allegation 1.6

83.30 The Tribunal found allegation 1.6 proved on the facts and on the documents. The Respondent had denied allegation 1.6.

83.31 The Respondent maintained that she had informed her insurers AON of the client account shortfall and she had relied on her letter dated 17 February 2010 which she said she had sent to AON. The Tribunal noted that inter alia, that letter had not been accepted by Mr Williams on behalf of the Applicant. He had invited the Respondent to obtain the originals and to seek verification of the documents which were not agreed. She had failed to do so. The Tribunal was not minded therefore to attach any weight to the letters produced by the Respondent post investigation and upon which she sought to rely. On that basis, the letters were disregarded by the Tribunal and it found that the Respondent had failed to notify her insurers AON regarding the shortfall.

Allegations 1.7 and 1.8

83.32 The Tribunal found allegations 1.7 and 1.8 proved on the facts and on the documents. The Respondent had denied allegation 1.7 but admitted allegation 1.8.

83.33 In relation to allegation 1.7, the Tribunal found that the Respondent had failed to notify TMW and BM of material information in relation to the three conveyancing transactions involving Ms NB and Mr JH and Mr RM. The Respondent had issued clear Certificates of Title to her mortgagee clients but without having disclosed to them oddities regarding the transactions including suspicious aspects of the transactions which were suggestive of potential mortgage fraud. This had caused the Tribunal grave concerns.

83.34 As a result of the Respondent's failure to notify her mortgagee client TMW, the Tribunal found that TMW had been unable to make an informed decision regarding lending to clients NB and JH. The Tribunal had disregarded the letter dated 13 April 2010 which the Respondent had purportedly sent to TMW. The Tribunal was satisfied that the Respondent had not informed her mortgagee clients that monies had come from vendor Solicitors and not from the clients.

83.35 The Tribunal found that allegation 1.8 flowed from allegation 1.7 and that by her conduct the Respondent had failed to provide a mortgagee client with a good standard of service. The Respondent had failed to notify BM of any suspicious characteristics regarding the transaction for client RM. The Tribunal heard that the transaction bore

all the hallmarks of potential mortgage fraud and followed the same pattern as the two other transactions. It was satisfied that by not having disclosed such issues to the mortgagees, the Respondent had failed to provide them with a good standard of service.

Allegation 1.9

83.36 The Tribunal found allegation 1.9 proved on the facts and on the documents. The Respondent had denied allegation 1.9.

83.37 The Respondent had admitted, with the benefit of hindsight that she had been naive and had trusted others when she should not have done so. The Tribunal had serious concerns regarding the constraint by the Respondent (and Mr KV) of Mr MC and his involvement in the transaction, the involvement at all of a non-solicitor third party namely Mr KV and his apparent manipulation of the transaction and the Respondent's apparent disregard of her professional obligations, in particular the Money Laundering Regulations.

83.38 The Tribunal heard and it agreed that it had been a very suspicious transaction. The Tribunal was satisfied that the Respondent had provided banking facilities for Mr AT and Mrs ST which she should not have done and that it should have been Mr AT and Mrs ST sending the funds to Dubai and not the Respondent. It accepted that the degree of suspicion had been heightened by the involvement of Mr KV.

Allegation 1.10

83.39 The Tribunal found allegation 1.10 proved on the facts and on the documents. The Respondent had denied allegation 1.10.

83.40 The Tribunal was satisfied that the Respondent had made an untrue statement in the PII proposal form by having answered "No" to the material question. The completion of the form by the Respondent, dated 16 August 2010, had been pre-dated by the Adjudicator's First Instance Decision dated 23 July 2010 referring her to the Tribunal and by the PSU visit in July 2010, albeit the Tribunal noted that had not been alleged.

83.41 Again, absent any evidence as to the authenticity of the undated letter purportedly sent to AON by the Respondent, the Tribunal attached no weight to that and disregarded it for the purposes of its finding as to allegation 1.10.

Previous Disciplinary Matters

84. The Respondent had previously appeared before the Tribunal under case number 10703-2011 as a result of which the Respondent was fined in the sum of £5,000 and ordered to pay costs in the sum of £8,500.

Mitigation

85. The Respondent told the Tribunal that she had relied on certain people which had resulted in her having made erroneous decisions. She was very sorry that matters had turned out as they had. The Respondent said that she had been practising since 1991

and that these matters had only arisen recently as a result of her trusting nature which had led her to rely on others.

86. The Respondent told the Tribunal that the FIO had referred to "Mafia money" regarding the LTMD transaction since it had involved Italian names and she felt strongly about the Tribunal being told what she maintained had been said to her.

87. The Respondent explained that her firm had previously been a limited liability partnership but that as a result of the previous Tribunal proceedings, the other Member had left and she had become a limited company. She said that since September 2012 she had closed the firm as she had found it difficult to function properly with everything that had happened. She said that she was working on a self-employed consultancy basis.

88. The Respondent told the Tribunal that it was alien to her being faced with these matters and she believed that she had done all she had done honestly and correctly yet she was appearing before the Tribunal again. The Respondent accepted that she was ultimately responsible.

Sanction

89. The Tribunal had regard to its Guidance Note on Sanctions.

90. It had found all of the allegations proved and that the Respondent's culpability had been total. Whilst the Respondent may have relied on others the Tribunal considered that that was no defence and nor was naivety. The Respondent had allowed herself to be manipulated by others as a result of which she had fallen into error.

91. The SAR breaches were breaches of strict liability and the Tribunal was satisfied that the Respondent had failed seriously in her professional obligations to comply with the Rules including remedying the relevant breaches; as a result, client money had been placed at risk which should never have happened as client money was sacrosanct. The Tribunal considered that an aggravating factor of the Respondent's misconduct was that she knew or ought reasonably to have known that the conduct complained of was in material breach of her obligations to protect the public and the reputation of the profession.

92. Whilst there was no allegation of dishonesty, the Respondent had been involved in transactions which had shown signs of potential mortgage fraud and money laundering yet she had failed to raise the alarm. In relation to the PII proposal form, the Tribunal concluded that there had been concealment. The Tribunal had further been extremely concerned about the letters sent by the Respondent to client AL and the threatening tone of those letters in particular the letter dated 26 January 2010.

93. The protection of the reputation of the profession and of the public interest was uppermost in the Tribunal's mind. It had to balance this in making its decision as to the reasonable and proportionate sanction to be imposed. The Tribunal had noted the Respondent's previous appearance before it but had not attached significant weight to that appearance as its factual background post-dated these proceedings and it was therefore a less aggravating factor than it would otherwise have been.

94. The Tribunal had regard to the authorities, particularly those in relation to the need for Solicitors to be trustworthy, and the case of Bolton in which Sir Thomas Bingham M.R. stated:

> "...A profession's most valuable asset is its collective reputation and the confidence which that inspires".

95. The Tribunal had regard to the overall misconduct and the utmost seriousness of the particular case before it and it ordered that the Respondent be struck off the Roll of Solicitors.

Costs

96. Mr Williams confirmed that he had served the Respondent with the Applicant's Schedule of Costs on 27 November 2012 by first class post.

97. He said that all allegations had been found proved. There was a costs breakdown in the Schedule and the FIO's costs were in the usual form. Mr Williams acknowledged that the FI costs were significant but said that they were justified and he invited the Tribunal to summarily assess the costs.

98. Mr Williams referred the Tribunal to the case of R (on the application of Middleton) v Cambridge Magistrates Court [2012] EWHC 2122 and that there needed to be a means enquiry of the Respondent.

99. The Respondent told the Tribunal that a costs order had been made against her in the previous disciplinary proceedings in August 2011 and she was in arrears. She said that a charge had been placed on her property by the Applicant regarding those costs.

100. The Respondent said that she had been astounded by the Applicant's costs for these proceedings and in particular the number of hours taken by the FIO to undertake his investigations. With regard to the Tribunal dealing with the costs, the Respondent confirmed that she would give evidence regarding her means so that the Tribunal could consider what costs order to make rather than the question of costs being adjourned or sent for detailed assessment.

101. The Respondent told the Tribunal that she was self-employed. She said that she had not drawn a salary for approximately seven/eight months which had contributed to the arrears in relation to the previous costs order. She said that the charge had been secured against her property in March 2012. The Respondent told the Tribunal that she had no income as such and was very much in the Tribunal's hands.

102. In response to a question from the Tribunal the Respondent said that she had been advising clients on a non-regulatory basis and that whilst she had a practising certificate she was not undertaking any reserved activities. The Respondent said that she was a director for some of her clients' companies but that she was not remunerated for those directorships.

103. The Respondent confirmed that she had no children and that her husband worked abroad as a Marketing Consultant.

104. The Respondent confirmed that she owned the premises of her firm which were now tenanted. She said that the mortgage was covered by the rent but not the service charges. The Respondent told the Tribunal that in addition to her home, she also owned another property which had been on the market since August 2012. She said that that was the property with the charge secured against it for the previous costs of £8,500 and the fine of £5,000 less what she had paid. The Respondent estimated that there was approximately half outstanding. The property was worth approximately £205,000 less the mortgage of £120,000.

105. In relation to her own home, the Respondent said that was heavily mortgaged. She told the Tribunal that there was a nearby property on the market for £495,000 and her mortgage was £380,000.

106. The Respondent said that a further liability might be redundancy monies for the two members of staff she had kept on. She confirmed that there were no other liabilities other than funeral expenses following the death of a close family member earlier in the year.

107. The Tribunal attached due weight to the Respondent's evidence on oath as to her means. The Respondent had assets available which would enable her to meet a costs order imposed upon her. The Tribunal therefore summarily assessed the costs and ordered that the Respondent pay costs in the sum of £28,000 inclusive of VAT and disbursements.

Statement of Full Order

108. The Tribunal Ordered that the Respondent, Antoinette Olivia Taylor, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £28,000.00 inclusive of VAT and disbursements.

Dated this 4th day of January 2013
On behalf of the Tribunal

Mrs K. Thompson
Chairman