

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11181-2013

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

KIMBERLEY BRIDGE,

First Respondent

[RESPONDENT 2]

Second Respondent

[RESPONDENT 3]

Third Respondent

NICOLA ROACH

Fourth Respondent

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Before:

Mrs K. Todner (in the Chair)

Mrs E. Stanley

Lady Bonham Carter

Date of Hearing: 15 April 2014

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## **Appearances**

Mr James Dunn of Devonshires Solicitors, 30 Finsbury Circus, London EC2M 7DT for the Applicant.

The Second Respondent appeared and was not represented.

The Third Respondent appeared and was represented by Mr Robert Foreman of Murdochs Solicitors, 45 High St, Wanstead, London E11 2AA.

The First and Fourth Respondents did not appear and were not represented.

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## **JUDGMENT**

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## **Allegations**

1. The Allegations against the First Respondent, Kimberley Bridge, made on behalf of the Solicitors Regulation Authority (the “SRA”) were that she:
  - 1.1 Failed to act in the best interest of each client, in breach of Rule 1.04 of the Solicitors Code of Conduct 2007 (the “SCC 2007”);
  - 1.2 Failed to report the Fourth Respondent to the SRA when she became aware of serious misconduct by her, in breach of Rule 20.06 of the SCC 2007 and, from 6 October 2011, in breach of Outcome 10.4 of the SRA Code of Conduct 2011 (the “SCC 2011”);
  - 1.3 Failed to ensure compliance with the Solicitors Accounts Rules 1998 (the “SAR 1998”) by the other Respondents, in breach of Rule 6 of the SAR 1998 and, from 6 October 2011, in breach of Rule 6.1 of the SRA Accounts Rules 2011 (“AR 2011”);
  - 1.4 Failed to remedy promptly upon discovery breaches of the SAR 1998 by replacement of money improperly withdrawn from the client account, in breach of Rule 7 of the SAR 1998 and, from 6 October 2011, in breach of Rule 7.1 of the AR 2011;
  - 1.5 Failed to act with integrity, in breach of Principle 2 of the SCC 2011;
  - 1.6 Failed to act in the best interest of each client, in breach of Principle 4 of the SCC 2011;
  - 1.7 Failed to comply with regulatory obligations and to deal with the SRA in an open, timely and co-operative manner and to co-operate fully with the SRA, in breach of Principle 7 and Outcome 10.6 of the SCC 2011;
  - 1.8 Failed to run her business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SCC 2011;
  - 1.9 Failed to protect client money and assets, in breach of Principle 10 of the SCC 2011;
  - 1.10 Failed to deal with client’s complaints properly, in breach of Outcome 1.11 of the SCC 2011;
  - 1.11 Failed to pay client money without delay into a client account, in breach of Rule 14.1 of the AR 2011;
  - 1.12 Failed to give or send a bill of costs, or other written notification of costs incurred, to the client or paying party before requiring payment of her fees from monies held for a client in the client account, in breach of Rule 17.2 of the AR 2011;
  - 1.13 Made improper withdrawals from client account, in breach of Rule 20.1 of the AR 2011;

- 1.14 Made withdrawals from general client account in excess of the money held on behalf of the relevant client in the general client account, in breach of Rule 20.6 of the AR 2011;
  - 1.15 Failed to keep accounting records properly written up to show dealings with client money, in breach of Rule 29.1 of the AR 2011;
  - 1.16 Failed to ensure that the current balance on each client ledger account was always shown, in breach of Rule 29.9 of the AR 2011;
  - 1.17 Failed to ensure that all shortages were shown in reconciliations, in breach of Rule 29.14 of the AR 2011;
  - 1.18 Failed to produce documents and information to an IO appointed by the SRA necessary to prepare a report on compliance with the AR 2011, in breach of Rule 31.1 of the AR 2011; and
  - 1.19 Failed to take out and maintain qualifying insurance under the SRA indemnity Insurance Rules 2012 (the "SIIR 2012"), in breach of Rule 4.1 of the SIIR 2012.
2. Allegations 1.5, 1.7, 1.9, 1.11, 1.12, 1.13, 1.14, 1.16 and 1.18 were made on the basis that the First Respondent acted dishonestly, although it would be open to the Tribunal to find the allegations proven without finding dishonesty.
  3. The Allegations against the Second Respondent, made on behalf of the SRA were that he:
    - 3.1 Failed to ensure compliance with the SAR 1998 by the other Respondents, in breach of Rule 6 of the SAR 1998 and, from 6 October 2011, in breach of Rule 6.1 of the AR 2011;
    - 3.2 Failed to remedy promptly upon discovery breaches of the SAR 1998 by replacement of money improperly withdrawn from the client account, in breach of Rule 7 of the SAR 1998 and, from 6 October 2011, in breach of Rule 7.1 of the AR 2011;
    - 3.3 Failed to comply with regulatory obligations, in breach of Principle 7 of the SCC 2011;
    - 3.4 Failed to run his business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SCC 2011;
    - 3.5 Failed to protect client money and assets, in breach of Principle 10 of the SCC 2011;
    - 3.6 Failed to pay client money without delay into a client account, in breach of Rule 14.1 of the AR 2011;
    - 3.7 Failed to keep accounting records properly written up to show dealings with client money, in breach of Rule 29.1 of the AR 2011;

- 3.8 Failed to ensure that the current balance on each client ledger account was always shown, in breach of Rule 29.9 of the AR 2011;
  - 3.9 Failed to ensure that all shortages were shown in reconciliations, in breach of Rule 29.14 of the AR 2011; and
  - 3.10 Failed to take out and maintain qualifying insurance under the SIIR 2012, in breach of Rule 4.1 of the SIIR 2012.
4. The Allegations against the Third Respondent, made on behalf of the SRA were that she:
- 4.1 Failed to ensure compliance with the SAR 1998 by the other Respondents, in breach of Rule 6 of the SAR 1998 and, from 6 October 2011, in breach of Rule 6.1 of the AR 2011;
  - 4.2 Failed to comply with regulatory obligations, in breach of Principle 7 of the SCC 2011;
  - 4.3 Failed to run her business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SCC 2011;
  - 4.4 Failed to protect client money and assets, in breach of Principle 10 of the SCC 2011;
  - 4.5 Failed to remedy promptly upon discovery breaches of the AR 2011 by replacement of money improperly withdrawn from the client account, in breach of Rule 7.1 of the AR 2011;
  - 4.6 Failed to pay client money without delay into a client account, in breach of Rule 14.1 of the AR 2011;
  - 4.7 Failed to keep accounting records properly written up to show dealings with client money, in breach of Rule 29.1 of the AR 2011;
  - 4.8 Failed to ensure that the current balance on each client ledger account was always shown, in breach of Rule 29.9 of the AR 2011;
  - 4.9 Failed to ensure that all shortages were shown in reconciliations, in breach of Rule 29.14 of the AR 2011; and
  - 4.10 Failed to take out and maintain qualifying insurance under the SIIR 2012, in breach of Rule 4.1 of the SIIR 2012.
5. The Allegations against the Fourth Respondent, Nicola Roach, made on behalf of the SRA were that she has, in the opinion of the Law Society occasioned or been a party to an act or default in relation to a legal practice which involved conduct on her part of such a nature that, in the opinion of the Law Society, it would be undesirable for her to be involved in a legal practice in one or more of the ways mentioned in Section

43(1XA) of the Solicitors Act 1974 as amended by the Legal Services Act 2007 in that she:

- 5.1 Failed to act in the best interest of each client, in breach of Rule 1.04 of the SCC 2007;
  - 5.2 Failed to report the First Respondent to the SRA when she became aware of serious misconduct by her, in breach of Rule 20.06 of the SCC 2007 and, from 6 October 2011, in breach of Outcome 10.4 of the SCC 2011;
  - 5.3 Failed to remedy promptly upon discovery breaches of the SAR 1998 by replacement of money improperly withdrawn from the client account, in breach of Rule 7 of the SAR 1998 and, from 6 October 2011, in breach of Rule 6.1 of the AR 2011;
  - 5.4 Failed to act with integrity, in breach of Principle 2 of the SCC 2011;
  - 5.5 Failed to act in the best interest of each client, in breach of Principle 4 of the SCC 2011;
  - 5.6 Failed to comply with regulatory obligations and to deal with the SRA in an open, timely and co-operative manner and to co-operate fully with the SRA in breach of Principle 7 and outcome 10.6 of the SCC 2011;
  - 5.7 Failed to carry out her role in the business effectively and in accordance with proper governance in breach of Principle 8 of the SCC 2011;
  - 5.8 Failed to protect client money and assets, in breach of Principle 10 of the SCC 2011;
  - 5.9 Failed to remedy promptly upon discovery breaches of the SAR 2011 by replacement of money improperly withdrawn from the client account, in breach of Rule 7.1 of the AR 2011; and
  - 5.10 Failed to produce documents and information to an officer appointed by the SRA necessary to prepare a report on compliance with the AR 2011, in breach of Rule 31.1 of the AR 2011.
6. Allegations 5.4, 5.6, 5.8 and 5.10 were made on the basis that the Fourth Respondent acted dishonestly, although it would be open to the Tribunal to find the allegations proven without finding dishonesty.

## **Documents**

7. The Tribunal reviewed all the documents submitted by the parties, which included:

Applicant:

- Application dated 15 August 2013 in respect of the First, Second and Third Respondents;
- Application dated 15 August 2013 in respect of the Fourth Respondent;
- Rule 5 Statement dated 15 August 2013, together with Exhibit JHRD1 (3 Volumes);

- Statement of Craig Sharpe, Process Server, dated 21 October 2013;
- Skeleton Argument of the Applicant dated 14 April 2014, together with Schedule of Allegations and Chronology;
- Schedule of Costs of the Applicant dated 10 April 2014, together with the Bill of Forensic Investigation Costs.

Respondents:

- Statement of the Second Respondent dated 23 January 2014, together with Exhibits JCM1-JCM3;
- Statement of Means of the Second Respondent dated 9 April 2014;
- Statement of the Third Respondent dated 3 December 2013, together with Exhibit TS1;
- Seven Character References in respect of the Third Respondent;
- Income and Expenditure Statement of the Third Respondent.

**Preliminary Matter**

First Preliminary Matter

8. Mr Dunn observed that neither the First Respondent nor the Fourth Respondent were present.
9. The First Respondent had been served with the Rule 5 Statement on 21 October 2013 as shown in the witness statement of the Process Server, Mr Sharpe. Notice of the hearing had also been sent by recorded delivery and first class post on 16 December 2013, 15 January 2014 and 10 February 2014. The First Respondent had responded to the notice of hearing on 18 February 2014 by stating; "I have previously written to you, the SRA and their solicitors to tell you that I will not engage with any of this process". On 28 February 2014 she had again written to say "I have written previously to the SRA, prior to your intervention, and told them that I have no intention of engaging with this process. They should remove me from the register and record it as a Striking Off".
10. The Fourth Respondent had also been served with the Rule 5 Statement and notice of the hearing. The initial attempt to serve notice of the proceedings had been returned to the Post Office; however after obtaining confirmation of the Fourth Respondent's new address, notice of the proceedings had been served at the correct address on 10 February 2014. There has never been any engagement with the proceedings by the Fourth Respondent.
11. Mr Dunn submitted that the Tribunal ought to dispose of the hearing in the absence of the First and Fourth Respondents as they had been notified and served with the proceedings and had waived their right to be present at the substantive hearing as they knowing when and where it was to take place, had deliberately and voluntarily absented themselves (R v Hayward [2001] QB 862 and Tait v Royal College of Veterinary Surgeons [2003] UKPC 34). The Tribunal had the power to hear and determine an application notwithstanding that the Respondent failed to attend in person or was not represented at the hearing under Rule 16(2) of the Solicitors (Disciplinary Proceedings) Rules 2007.

### The Tribunal's Decision on the First Preliminary Matter

12. The Tribunal noted Mr Dunn's submissions and agreed that the matter should proceed in the absence of the First and Fourth Respondents. In the case of the First Respondent it was clear from her correspondence, which was before the Tribunal, that she had no intention of engaging with the process and would not appear before the Tribunal. The Tribunal was also satisfied, based upon the evidence before them, that the Fourth Respondent was aware of the hearing and concluded that she had elected to absent herself; in any event she had never engaged with any part of the proceedings.

### Second Preliminary Matter

13. Mr Dunn also asked for leave of the Tribunal to amend allegations 3.3 and 4.2 against the Second and Third Respondents respectively by removing the words "and Outcome 10.6 of the SCC 2011". The Second and Third Respondents were prepared to admit all of the remaining allegations.

### The Tribunal's Decision on the Second Preliminary Matter

14. The Tribunal would permit the amendments to allegations 3.3 and 4.2.

### **Factual Background**

15. The First Respondent was admitted as a solicitor on 15 October 1996 and her name remains on the Roll. Her date of birth is 2 October 1971.
16. The Second Respondent was admitted as a solicitor on 15 June 1981 and his name remains on the Roll. His date of birth is 8 April 1954.
17. The Third Respondent was admitted as a solicitor on 1 September 1994 and her name remains on the Roll. Her date of birth is 13 December 1969.
18. The Fourth Respondent is not admitted as a solicitor. Her date of birth is 20 June 1976.
19. At all material times, the First, Second and Third Respondents were acting in partnership in the firm known as SFN Solicitors (the "Firm") which operated from offices at 3-5 Red Lion Street, Burnley, Lancashire BB11 2AE and Stanley House, Lowergate, Clitheroe, Lancashire BB7 1AD.
20. At all material times, the Fourth Respondent was an employee of the Firm. She is the sister of the First Respondent.
21. The allegations arose from an inspection commenced by the SRA on 29 February 2012. As a result of this inspection visit, the Forensic Investigation Officer Amie Woods (the "IO") produced a Forensic Investigation Report (the "FI Report") dated 6 December 2012.
22. The matter was raised with the First, Second and Third Respondents by correspondence dated 18 December 2012.

23. Following responses received from the First, Second and Third Respondents on 4 January 2013, the Panel of Adjudicators Sub-Committee of the SRA resolved to intervene into the Firm on the grounds that:
  - 23.1 There was reason to suspect dishonesty on the part of the First Respondent in connection with her practise as a solicitor; and
  - 23.2 The First, Second and Third Respondents had failed to comply with the SAR 1998/AR 2011 including but not limited to Rules 6,7 and 22 of the SAR 1998 and Rules 6, 7 and 20 of the AR 2011.
24. The matter was raised again with the First, Second and Third Respondents, and on this occasion also with the Fourth Respondent, by correspondence dated 1 February 2013.
25. Responses were received from the First Respondent on 29 May 2013 (in which she accepted all of the allegations in the FI Report), the Second Respondent on 1 April 2013 and the Third Respondent or her representative on 23 December 2012, 29 January 2013, 11 March 2013 and 30 April 2013.
26. No response was received from the Fourth Respondent.

## **Factual Background**

### Mr & Mrs "I"

27. The Firm's accountant's report for the year ended 31 October 2010 reported that there had been a shortfall on the client account of £185,000 since 8 June 2010 and that this shortfall arose because the Firm was acting in relation to the purchase of some land to be financed by a mortgage from HSBC for £200,000 (the "Transaction").
28. The accountant's report stated that at 2.13pm on the day of completion, 8 June 2010, HSBC told the Firm that the advance of £200,000 had been released to them and that as a result, £185,000 was paid out of the client account on the assumption that the £200,000 would be received from HSBC into the client account before 5pm. The accountant's report went on to say that the monies were not received and that it later transpired that this was as a result of a money laundering report which HSBC did not disclose to the Firm due to "tipping off" concerns but that subsequently it transpired that there were no money laundering issues. It was further said that by then the client's mortgage offer had expired and as a result a new offer had to be obtained prior to the monies being paid over to the Firm.
29. At the outset of the inspection, on 29 February 2012, the First Respondent repeated this explanation to the IO, with a few modifications, and confirmed that the monies had been received from HSBC on 1 November 2011. The modifications were that the loan was for £185,000 and HSBC had said that the monies were "in the system" and ready to be released.
30. Upon review of the file for the Transaction by the IO, it appeared that the First and Fourth Respondents had conduct of the matter and that the clients were a Mr & Mrs I



who were purchasing a property in Didsbury and a parcel of land to the back of that property. There were two separate transactions. The Transaction related to the parcel of land only and the documentation relating to the Transaction (the “Transaction Documentation”) was limited.

31. The First Respondent further explained that HSBC were providing a mortgage for the Transaction and that HSBC had finally released the mortgage monies on 1 November 2011; the Transaction Documentation indicated that £186,000 was received from HSBC. She also said that the Transaction Documentation was with the Reporting Accountants and the Firm’s insurers and she would arrange to recover it so that the IO could review it. She said she had commenced litigation against HSBC and separately contacted the Financial Ombudsman; however she had not submitted an SDLT return nor had she registered the transaction. It later transpired that these statements made by the First Respondent were untrue.
32. The client ledger account for the Transaction detailed two payments, one of £25,134.442 to “...D[] - Payment of works” and one of £11,620.10 to “D[] - Final Payment” The First Respondent stated that they were payments for works on the property, but there was no documentation for these two payments and the First Respondent therefore agreed to provide information in relation to them. However, the statements she made concerning these payments were false.
33. On 21 March 2012, the First Respondent informed the IO that the SDLT issue had been resolved and she would now proceed to deal with the registration. She provided documentation to demonstrate that the matter had been resolved, including an SDLT transmission slip. She also said that the Transaction Documentation had yet to be received from the accountants and insurers. These statements were also false.
34. In apparently taking action to resolve the SDLT position, the Fourth Respondent submitted incorrect financial information to HMRC in respect of Mr & Mrs I’s stamp duty liability when there was no such liability.
35. Some Transaction Documentation was received by the IO from the First Respondent between 6 June 2012 and 10 July 2012 but numerous further unsuccessful attempts were made by the IO to obtain both the Transaction Documentation and further explanations from the First Respondent. These included attempted visits to the Firm’s premises by the IO on:
  - 23 August 2012, when she was unable to gain access to the offices due to a fire alarm which the First Respondent stated was the result of an electrical fault;
  - 24 August 2012 when the First Respondent told the IO that the electrical fault had not been rectified and no one was allowed into the building;
  - 31 August 2012 when the First Respondent told the IO that the fire alarm had gone off again and the fire service had stated that no one was allowed into the building until the electrician had reviewed the position;

- 6 September 2012 when the First Respondent said that the fire alarm had gone off again and no one was allowed into the building; and
- 7 September 2012 when the First Respondent said that asbestos had been identified in the building and no one was allowed into the building as a result.

However, none of these statements was true and the First Respondent provided documents that were forged.

36. On 7 September 2012 the IO spoke to the fire service control room who stated that they had been out to the Firm's office on five occasions but no fire had been identified and their records indicated potential problems with the electrics. Their records did not refer to any asbestos being identified.
37. On 11 September 2012, the First Respondent informed the IO that she had still not been able to locate all the Transaction Documentation and that, following the IO's obtaining of title information for the title numbers used in the HSBC certificate of title, which related to an entirely different and unrelated property in Cheadle, the title number stated in the certificate of title was incorrect and an error must have occurred when the certificate of title was completed. She also said that the Transaction had still not been registered. None of these statements was true.
38. On 12 September 2012, whilst the IO was present at the Firm, the fire alarm went off and the office was evacuated. When the IO spoke to the fire service, they confirmed that there was a smell of burning similar to that of a lit match in the area where the alarm was set off.
39. On 13 September 2012, HSBC confirmed that the mortgage number detailed on the documents provided by the First Respondent was not a valid mortgage reference.
40. On 25 September 2012, the First Respondent informed the IO that she had established that the file containing the Transaction Documentation was with "RS" LLP, who were acting for the Firm's insurers and that they were retrieving it from their archive. This was not true.
41. On the same day, she informed the IO that a plumber had identified a problem with an old boiler that may have been releasing fumes that may have triggered the fire alarm. A new boiler had been installed and since then there had been no issues. These statements were also false.
42. On 2 October 2012, the First Respondent told the IO that the file of the Transaction Documentation had been located in the Firm's archive and she provided it to the IO. The file contained a number of documents. Her statement was untrue and the documents provided were forged.
43. On the same day, the Fourth Respondent was interviewed by the IO and stated that she had taken the instructions from Mr & Mrs I in respect of the Transaction and had conduct of the matter under the First Respondent's supervision. She also said that the First Respondent had taken over conduct of the file following the discovery that the funds from HSBC had not been received. Further, that she had sent a letter to Mr &

Mrs I in respect of SDLT via e-mail on 15 March 2012 but that she had deleted all of the e-mails concerning the Transaction. She had personally posted the cheque for £21,000 to HMRC on 20 March 2012. None of these statements was true.

44. On 3 October 2012, the First Respondent confirmed that £15,549.59 had not been received from Mr & Mrs I, despite an accounts chit detailing that it had been, and stated that the Fourth Respondent must have got confused when she had told the IO the previous day that she had personally posted the cheque for £21,000 to HMRC because this had not happened. She further stated that Mr & Mrs I's SDLT liability was outstanding and that she would deal with the issue immediately. These statements were not true.
45. On 4 October 2012, in a formal interview, the First Respondent confirmed that everything that she had previously told the IO in respect of the Transaction was correct. The IO then presented the First Respondent with substantial evidence demonstrating that her previous statement had been false and she was invited to provide an explanation. However, she did not do so.
46. On 11 October 2012, the First Respondent stated that the Transaction was not legitimate. It had been created to cover up "mistakes" on another file, being that of "D". The Transaction Documents she had provided to the IO had been forged. The £186,000 received by the Firm on 1 November 2011 came from her personal funds, not from a mortgage taken out by Mr & Mrs I. She explained that the Fourth Respondent had made mistakes and that she had tried to cover up those mistakes. She said that she would provide the IO with a full statement by 12 October 2012.
47. In fact, the £186,000 came from a joint account in the name of the First and Third Respondents.
48. On 12 October 2012 the First Respondent was admitted to hospital. The Second Respondent informed the IO that he had been informed that the First Respondent had suffered a stroke, which information was later called into question.
49. On 31 October 2012, the Second Respondent informed the IO that one of the D files had been located and he had been unable to reconcile the transactions on the client ledger accounts; it was clear that the money should not have been paid out, as the transactions had nothing to do with D.

#### Unallocated payments from client account

50. The client account reconciliation for the month ended 31 August 2012 detailed twelve payments totalling £714,224.20 (the "Unallocated Payments") that had not been allocated to client ledger accounts. On 11 September 2012, the First Respondent explained that she knew the clients to whom the Unallocated Payments related and they had not been posted because she had fallen behind and had yet to provide the accounts department with the relevant information. These statements were false.
51. On 2 October 2012 the First Respondent informed the IO that the Unallocated Payments had been posted to the relevant client ledger accounts. This statement was also false.

52. On 3 October 2012 the IO discovered that the Unallocated Payments had not been posted, but that the First Respondent had informed the Firm's cashier, Ms "H", that ten of the Unallocated Payments totalling £547,343.12 related to specific client account ledgers. The First Respondent subsequently explained that she thought that Ms H had posted them. The Second Respondent agreed to provide all of the client matter files to the IO.
53. On 10 October 2012 the IO was informed by Mr "BD", a consultant at the Firm, and former equity partner, that seven of the Unallocated Payments, totalling £444,523.34 did not relate to the three files that the First Respondent had identified for those Unallocated Payments. The fee earner with conduct of those three 3 files was the brother of Mr BD.
54. On 11 October 2012, in the presence of Mr BD's brother, the First Respondent was asked to explain why she had informed the IO that the seven Unallocated Payments related to these three files. She responded that she had believed that the payments had related to those clients and denied that any improper payments had been made from the client account. These statements were untrue.
55. Three of the Unallocated Payments, totalling £232,728.23 were made to the personal bank account of the First and Third Respondents on 19 March 2012. The Third Respondent informed the IO that she was unaware that these payments had come from the client account until she was informed of this by the IO.
56. Other Unallocated Payments also contributed to a minimum cash shortage of £418,099.42, as agreed by the Second Respondent. The minimum cash shortage was not replaced by the Second Respondent.

#### Unpaid disbursements nominal account

57. On 11 October 2012 Ms H provided the IO with a spreadsheet of unpaid disbursements totalling £39,503.06 that had been recovered on behalf of clients but that had not been repaid to them. These monies were held in the office account.
58. The Second Respondent accepted that, if Ms H's workings were correct, then at 30 September 2012, funds totalling £39,503.06 would constitute a cash shortage.

#### Improper Payment of £65,000 on behalf of Ms "T"

59. On 28 September 2012 the First Respondent instructed the Firm's accounts department to make a payment of £65,000 and to post the payment to a client ledger account in the name of "X".
60. It subsequently transpired that this payment was made on behalf of a Ms T. Ms T was buying a property and had arranged a mortgage, but the Firm never drew down on the mortgage and therefore never received this £65,000 into their client account to allow them to pay the money out on her behalf.
61. This improper payment was part of the minimum cash shortage of £418,099.42.

Mr & Mrs "N"

62. Mr & Mrs N instructed the Firm in the sale of a property in Burnley.
63. On 8 February 2012 the First Respondent arranged for payment of £27,291.19 from the client account to "R" Limited in respect of council tax for 5-9 Nicholas Street, a property rented by the Firm. This transaction was improperly posted to the client ledger account for Mr & Mrs N.
64. On 26 June 2012, £4,600 was improperly transferred from client to office account in respect of profit costs for this matter. This assisted with the reduction of the Firm's overdraft which, at the time, was £287,070.23 against an agreed overdraft limit of £280,000.
65. These improper payments were part of the minimum cash shortage of £418,099.42.

Mr "P"

66. The First Respondent acted for Mr P in the sale of a property in Burnley.
67. On 29 June 2012, £4,200 was transferred from client to office account in respect of profit costs based on an invoice detailing work that had been done in respect of the sale and in respect of Mr P's divorce. As at 29 June 2012, the office account balance was £287,302.92 overdrawn against an agreed limit of £280,000.00. At the same time, the First Respondent failed to redeem the mortgage on the property that had been sold.
68. The conveyancing fee had been agreed with Mr P at £300 + VAT and disbursements.
69. On 11 October 2012 the First Respondent informed the IO that she had also acted for Mr P in respect of other work. These statements were false. Despite being requested, no further detail was forthcoming.
70. Mr P has confirmed that the First Respondent only acted for him in the sale of his property and not in a divorce matter.
71. On 31 October 2012, the Second Respondent agreed that there was a client account shortage of £4,200 in respect of this transaction. He also agreed that the First Respondent had failed to pay the redemption monies as part of them had been transferred to office account. These improper payments were part of the minimum cash shortage of £418,099.42.

Mrs "C" Deceased

72. The First Respondent informed the IO that Unallocated Payments in July 2012 of £42,640 related to the probate matter of "D" Deceased and that £41,640 related to the probate matter of "Dg" Deceased. These statements were false.
73. In fact the two payments related to the estate of Mrs C, for whom the First and Second Respondents were executors. However, the First Respondent had failed to apply for

grant of probate for the estate and one of the beneficiaries had complained to the First Respondent in March 2012 about the delay. As the First Respondent had failed to apply for a grant of probate, no monies had been received into the client account to allow the distributions to be effected.

74. On 31 October 2012, the Second Respondent agreed that there was a client account shortage of £84,280 in respect of these transactions. These transactions were part of the minimum cash shortage of £418,099.42.

#### Failure to deal with incoming mail

75. The First Respondent was responsible for opening the post. On 12 October 2012 the Second Respondent commenced a full review of the First Respondent's files and paperwork. A substantial amount of unanswered mail was identified including six complaints from the Legal Ombudsman.

#### Messrs "B and H"'s Purchase of a property in Colne

76. The First and Fourth Respondents acted for Messrs B and H, together with their lender, Manchester Building Society, in the purchase of the property in 2006. The completion statement detailed the stamp duty liability at £1,700. However, the client ledger did not indicate any payments of stamp duty, but did indicate two other payments. Ms H, the firm's cashier, stated that she did not know to what these two payments related.
77. The transaction was not registered at the Land Registry. Manchester Building Society tried to rectify the position and instructed "BP" solicitors. In May 2012, the Fourth Respondent told BP that the matter would be dealt with. Between May 2012 and September 2012 attempts were made by the solicitors to resolve the issues with the First and Fourth Respondents, to no avail. This culminated in a notice to the managers of the Firm on 10 September 2012 that proceedings would be issued.
78. The file was located in a box under the Fourth Respondent's desk after her employment was suspended by the Second Respondent on 17 October 2012.

#### Acting without professional indemnity insurance

79. Between 1 October 2012 and 16 October 2012 the Firm operated without professional indemnity insurance.
80. The First Respondent had previously told the Second Respondent that insurance was in place, which was untrue. The Second Respondent discovered that this was incorrect on 16 October 2012 and closed the Firm with effect from 17 October 2012.

#### Financial Management and Governance

81. The First Respondent was the managing partner and was responsible for the day-to-day management of the accounts. She would update the Second Respondent on regular occasions regarding the financial position, including monthly management

accounts but these did not detail anything in respect of the client account issues that existed.

82. The Second Respondent admitted that the First Respondent did not exercise proper governance over the books of account.

#### Investigation Notification

83. The original investigation notifications to the managers were intercepted by the First Respondent and hidden from the Second and Third Respondents.
84. The Second Respondent had completed a “professional history form” in April 2012 at the request of the First Respondent who informed him that the information had been requested by the Firm’s insurers.

#### **Witnesses**

85. None.

#### Submissions of the Applicant

86. Mr Dunn told the Tribunal that the Second and Third Respondents would now admit all of the allegations as amended. The First Respondent had accepted all the breaches alleged against her in the FI Report, which mirrored the charges in the Rule 5 Statement, but had made no comment since the issue of the Rule 5 Statement. She had neither admitted nor denied any dishonesty as it had not been alleged until after the Rule 5 Statement had been produced. Mr Dunn said that the Applicant had neither received communication from, nor been in communication with, the Fourth Respondent following the initial investigation of the Firm.
87. Mr Dunn took the Tribunal through the evidence contained within the exhibit bundle JHRD1. He said that the Second and Third Respondents had taken very little part in the investigation, indeed the Second Respondent had been absent from the office. It was now clear that the notification letters concerning the investigation had been concealed from them by the First Respondent.
88. In the submission of the Applicant, although the First Respondent had asked to be “Struck Off” the question of dishonesty was one that remained to be determined.
89. The Applicant also invited the Tribunal to consider the following issues in relation to each of the allegations against the Fourth Respondent:
- a) Whether the Fourth Respondent acted in the best interest of each client in respect of the file relating to Mr and Mrs I and the B and H file, in accordance with 1.04 of the SCC 2007 and Principle 4 SCC 2011;
  - b) whether the Fourth Respondent failed in her duty promptly to report serious misconduct arising out of her own conduct and the conduct of the First Respondent in respect of the file relating to Mr and Mrs I and the B and H file, pursuant to 20.06 SCC 2007 and Outcome 10.4 SCC 2011;

- c) whether the Fourth Respondent failed promptly to replace the monies that had been improperly withdrawn with respect to the B and H file, despite her knowledge that the £1,700 owing in SDLT was not paid for that purpose but for two other purposes that could not be reconciled to the client ledger, in accordance with Rule 7 of the SAR 1998 and 7.1 of the AR 2011;
  - d) whether the Fourth Respondent acted with integrity pursuant to Principle 2 SCC 2011 in respect of her handling of the I and the B and H files;
  - e) whether the Fourth Respondent was acting dishonestly in the provision of false information and documentation to the IO in respect of the I file and whether under Principle 7 and Outcome 10.6 SCC 2011, the Fourth Respondent failed to deal with the SRA in an open, timely and cooperative manner and to cooperate fully with the IO. In Mr Dunn's submission the Tribunal would have particular regard to whether the Fourth Respondent acted dishonestly in:
    - i) claiming she had taken instructions for Mr and Mrs I in respect of the Transaction;
    - ii) claiming she had deleted all of the emails concerning the Transaction; and
    - iii) claiming that she had personally posted a cheque for £21,000 to HMRC on 20 March 2012 in respect of SDLC on the file.
  - f) whether the Fourth Respondent carried out her role within the Firm effectively and in accordance with proper governance, in accordance with Principle 8 SCC 2011, particularly in light of her conduct in respect of the I and the B and H files;
  - g) whether in breach of Principle 10 SCC 2011, the Fourth Respondent failed to protect client money and assets with respect to the I and the B and H files, and if not whether she acted dishonestly in failing to protect her clients' money and assets;
  - f) whether in breach of Rule 31.1 of the AR 2011, the Fourth Respondent failed to produce the necessary documents and information to an officer of the SRA, tasked with preparing a report in compliance with the AR 2011 and, if so, whether she acted dishonestly in providing false information and documents to the IO.
90. In assessing whether either the First or the Fourth Respondent had been dishonest in respect of certain of the allegations, the test to be applied by the Tribunal was the dual one set out in Twinsectra v Yardley [2002] UKHL 12. The test was whether the individual had acted dishonestly by the ordinary standards of reasonable and honest people and if so whether she was aware that by those same standards she was acting dishonestly. In Mr Dunn's submission the objective part of the test was satisfied on the facts of the case and the subjective part by the deceptions and forgeries carried out by both the First and Fourth Respondents.



## **Findings of Fact and Law**

91. The Tribunal had due regard to the Respondents' rights to a fair trial and to respect for their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Applicant was required to prove the allegations beyond reasonable doubt.

92. **The allegations against the First Respondent, Kimberley Bridge, were that she:**

**Allegation 1.1 - Failed to act in the best interest of each client, in breach of Rule 1.04 of the Solicitors Code of Conduct 2007 (the "SCC 2007");**

**Allegation 1.2 - Failed to report the Fourth Respondent to the SRA when she became aware of serious misconduct by her, in breach of Rule 20.06 of the SCC 2007 and, from 6 October 2011, in breach of Outcome 10.4 of the SCC 2011;**

**Allegation 1.3 - Failed to ensure compliance with the Solicitors Accounts Rules 1998 (the "SAR 1998") by the other Respondents, in breach of Rule 6 of the SAR 1998 and, from 6 October 2011, in breach of Rule 6.1 of the SRA Accounts Rules 2011 ("AR 2011");**

**Allegation 1.4 - Failed to remedy promptly upon discovery beaches of the SAR 1998 by replacement of money improperly withdrawn from the client account, in breach of Rule 7 of the SAR 1998 and, from 6 October 2011, in breach of Rule 7.1 of the AR 2011;**

**Allegation 1.5 - Failed to act with integrity, in breach of Principle 2 of the SRA Code of Conduct 2011 (the "SCC 2011");**

**Allegation 1.6 - Failed to act in the best interest of each client, in breach of Principle 4 of the SCC 2011;**

**Allegation 1.7 - Failed to comply with regulatory obligations and to deal with the SRA in an open, timely and co-operative manner and to co-operate fully with the SRA, in breach of Principle 7 and Outcome 10.6 of the SCC 2011;**

**Allegation 1.8 - Failed to run her business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SCC 2011;**

**Allegation 1.9 - Failed to protect client money and assets, in breach of Principle 10 of the SCC 2011;**

**Allegation 1.10 - Failed to deal with client's complaints properly, in breach of Outcome 1.11 of the SCC 2011;**

**Allegation 1.11 - Failed to pay client money without delay into a client account, in breach of Rule 14.1 of the AR 2011;**

**Allegation 1.12 - Failed to give or send a bill of costs, or other written notification of costs incurred, to the client or paying party before requiring payment of her fees from monies held for a client in the client account, in breach of Rule 17.2 of the AR 2011;**

**Allegation 1.13 - Made improper withdrawals from client account, in breach of Rule 20.1 of the AR 2011;**

**Allegation 1.14 - Made withdrawals from general client account in excess of the money held on behalf of the relevant client in the general client account, in breach of Rule 20.6 of the AR 2011;**

**Allegation 1.15 - Failed to keep accounting records properly written up to show dealings with client money, in breach of Rule 29.1 of the AR 2011;**

**Allegation 1.16 - Failed to ensure that the current balance on each client ledger account was always shown, in breach of Rule 29.9 of the AR 2011;**

**Allegation 1.17 - Failed to ensure that all shortages were shown in reconciliations, in breach of Rule 29.14 of the AR 2011;**

**Allegation 1.18 - Failed to produce documents and information to an IO appointed by the SRA necessary to prepare a report on compliance with the AR 2011, in breach of Rule 31.1 of the AR 2011;**

**Allegation 1.19 - Failed to take out and maintain qualifying insurance under the SRA indemnity Insurance Rules 2012 (the "SIIR 2012"), in breach of Rule 4.1 of the SIIR 2012.**

**Allegation 2 - Allegations 1.5, 1.7, 1.9, 1.11, 1.12, 1.13, 1.14, 1.16 and 1.18 were made on the basis that the First Respondent acted dishonestly, although it would be open to the Tribunal to find the allegations proven without finding dishonesty.**

- 92.1 Allegations 1.1 to 1.19 were admitted by the First Respondent and the Tribunal found each of the allegations to have been proved beyond reasonable doubt on the facts and documents before it.
- 92.2 Allegation 2 was treated by the Tribunal as having been denied by the First Respondent.
- 92.3 The Tribunal had considered most carefully those allegations where dishonesty was alleged and was satisfied so that it was sure that the First Respondent's conduct in relation to each of those allegations was objectively dishonest. In deciding whether the First Respondent had herself realised that by those same standards her conduct was dishonest, the Tribunal had concluded that the First Respondent must have realised that her conduct was dishonest. It was clear that her actions had been premeditated and had involved presenting forged documents to the IO and telling untruths to her until she was unable to maintain her deceit any longer.

92.4 The Tribunal found that in relation to allegations 1.5, 1.7, 1.9, 1.11, 1.12, 1.13, 1.14, 1.16 and 1.18 the First Respondent had acted dishonestly and that this had been proved beyond a reasonable doubt on the facts and documents before it.

93. **The Allegations against the Second Respondent, were that he:**

**Allegation 3.1 - Failed to ensure compliance with the SAR 1998 by the other Respondents, in breach of Rule 6 of the SAR 1998 and, from 6 October 2011, in breach of Rule 6.1 of the AR 2011;**

**Allegation 3.2 - Failed to remedy promptly upon discovery beaches of the SAR 1998 by replacement of money improperly withdrawn from the client account, in breach of Rule 7 of the SAR 1998 and, from 6 October 2011, in breach of Rule 7.1 of the AR 2011;**

**Allegation 3.3 - Failed to comply with regulatory obligations, in breach of Principle 7 of the SCC 2011;**

**Allegation 3.4 - Failed to run his business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SCC 2011;**

**Allegation 3.5 - Failed to protect client money and assets, in breach of Principle 10 of the SCC 2011;**

**Allegation 3.6 - Failed to pay client money without delay into a client account, in breach of Rule 14.1 of the AR 2011;**

**Allegation 3.7 - Failed to keep accounting records properly written up to show dealings with client money, in breach of Rule 29.1 of the AR 2011;**

**Allegation 3.8 - Failed to ensure that the current balance on each client ledger account was always shown, in breach of Rule 29.9 of the AR 2011;**

**Allegation 3.9 - Failed to ensure that all shortages were shown in reconciliations, in breach of Rule 29.14 of the AR 2011;**

**Allegation 3.10 - Failed to take out and maintain qualifying insurance under the SIIR 2012, in breach of Rule 4.1 of the SIIR 2012.**

93.1 Each of the allegations 3.1 to 3.10 (as amended) were admitted by the Second Respondent.

93.2 The Tribunal found that allegations 3.1 to 3.10 had been proved beyond reasonable doubt on the facts and documents before it, indeed each of them had been admitted by the Second Respondent.

94. **The Allegations against the Third Respondent, were that she:**

**Allegation 4.1 - Failed to ensure compliance with the SAR 1998 by the other Respondents, in breach of Rule 6 of the SAR 1998 and, from 6 October 2011, in breach of Rule 6.1 of the AR 2011;**

**Allegation 4.2 - Failed to comply with regulatory obligations, in breach of Principle 7 of the SCC 2011;**

**Allegation 4.3 - Failed to run her business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SCC 2011;**

**Allegation 4.4 - Failed to protect client money and assets, in breach of Principle 10 of the SCC 2011;**

**Allegation 4.5 - Failed to remedy promptly upon discovery breaches of the AR 2011 by replacement of money improperly withdrawn from the client account, in breach of Rule 7.1 of the AR 2011;**

**Allegation 4.6 - Failed to pay client money without delay into a client account, in breach of Rule 14.1 of the AR 2011;**

**Allegation 4.7 - Failed to keep accounting records properly written up to show dealings with client money, in breach of Rule 29.1 of the AR 2011;**

**Allegation 4.8 - Failed to ensure that the current balance on each client ledger account was always shown, in breach of Rule 29.9 of the AR 2011;**

**Allegation 4.9 - Failed to ensure that all shortages were shown in reconciliations, in breach of Rule 29.14 of the AR 2011;**

**Allegation 4.10 - Failed to take out and maintain qualifying insurance under the SIIR 2012, in breach of Rule 4.1 of the SIIR 2012.**

94.1 Each of the allegations 4.1 to 4.10 (as amended) were admitted by the Third Respondent.

94.2 The Tribunal found that allegations 4.1 to 4.10 had been proved beyond reasonable doubt on the facts and documents before it, indeed each one had been admitted by the Third Respondent.

95. **The Allegations against the Fourth Respondent, Nicola Roach, made on behalf of the SRA were that she has, in the opinion of the Law Society occasioned or been a party to an act or default in relation to a legal practice which involved conduct on her part of such a nature that, in the opinion of the Law Society, it would be undesirable for her to be involved in a legal practice in one or more of the ways mentioned in Section 43(1XA) of the Solicitors Act 1974 as amended by the Legal Services Act 2007 in that she:**

**Allegation 5.1 - Failed to act in the best interest of each client, in breach of Rule 1.04 of the SCC 2007;**

**Allegation 5.2 - Failed to report the First Respondent to the SRA when she became aware of serious misconduct by her, in breach of Rule 20.06 of the SCC 2007 and, from 6 October 2011, in breach of Outcome 10.4 of the SCC 2011;**

**Allegation 5.3 - Failed to remedy promptly upon discovery beaches of the SAR 1998 by replacement of money improperly withdrawn from the client account, in breach of Rule 7 of the SAR 1998 and, from 6 October 2011, in breach of Rule 6.1 of the AR 2011;**

**Allegation 5.4 - Failed to act with integrity, in breach of Principle 2 of the SCC 2011;**

**Allegation 5.5 - Failed to act in the best interest of each client, in breach of Principle 4 of the SCC 2011;**

**Allegation 5.6 - Failed to comply with regulatory obligations and to deal with the SRA in an open, timely and co-operative manner and to co-operate fully with the SRA in breach of Principle 7 and outcome 10.6 of the SCC 2011;**

**Allegation 5.7 - Failed to carry out her role in the business effectively and in accordance with proper governance in breach of Principle 8 of the SCC 2011;**

**Allegation 5.8 - Failed to protect client money and assets, in breach of Principle 10 of the SCC 2011;**

**Allegation 5.9 - Failed to remedy promptly upon discovery beaches of the SAR 2011 by replacement of money improperly withdrawn from the client account, in breach of Rule 7.1 of the AR 2011;**

**Allegation 5.10 - Failed to produce documents and information to an officer appointed by the SRA necessary to prepare a report on compliance with the AR 2011, in breach of Rule 31.1 of the AR 2011.**

**Allegation 6 - Allegations 5.4, 5.6, 5.8 and 5.10 were made on the basis that the Fourth Respondent acted dishonestly, although it would be open to the Tribunal to find the allegations proven without finding dishonesty.**

- 95.1 Allegations 5.1 to 5.10 were treated by the Tribunal as having been denied by the Fourth Respondent.
- 95.2 In considering allegations 5.1 to 5.10 the Tribunal had paid close attention to the submissions made by Mr Dunn, both orally and in his Skeleton Argument. The Tribunal had given careful consideration to each of the questions raised by Mr Dunn and on the facts and documents before it found each of the allegations to have been proved beyond a reasonable doubt.

- 95.3 Allegation 6 was treated by the Tribunal as having been denied by the Fourth Respondent.
- 95.4 In relation to those allegations where dishonesty was alleged, the Tribunal had again applied the dual test for dishonesty set out in the case of *Twinsectra*. The Tribunal was satisfied so that it was sure that the Fourth Respondent's conduct in relation to each of those allegations was objectively dishonest. In deciding whether the Fourth Respondent had herself realised that by those same standards her conduct was dishonest, the Tribunal had again concluded that the Fourth Respondent must have realised that her conduct was dishonest; the deceptions carried out by her spoke for themselves.
- 95.5 The Tribunal found that in relation to allegations 5.4, 5.6, 5.8 and 5.10 the Fourth Respondent had acted dishonestly and that this had been proved beyond reasonable doubt on the facts and documents before it.

### **Previous Disciplinary Matters**

96. None against any of the Respondents.

### **Mitigation**

#### The Second Respondent

97. The Second Respondent told the Tribunal that his mitigation was contained within his witness statement dated 23 January 2014. He confirmed that he accepted all of the allegations and the factual basis that underpinned them. The Second Respondent also ratified that his position in the Firm had been as indicated in his witness statement; he had run the Family Department which involved him spending most days in Court for at least part of the day keeping in contact with the Firm by mobile phone. The managing partner of the Firm since 2010 had been the First Respondent, her responsibilities included the opening of post in the morning, dealing with suppliers, liaising with the accounts department and dealing with the Firm's IT systems.
98. The Second Respondent was aware that a difficulty with a client account matter had been raised in the 2010 accounts, but he had been informed by the First Respondent that this had been resolved by the time the draft of those accounts was received in 2011. He had, in effect, been given the same explanation as that given to the IO by the First Respondent in 2012.
99. The Third Respondent had become very ill during the period in question and the Second Respondent had had to deal with the possibility that he and the First Respondent would also have to run her Department. When the Third Respondent had employed another solicitor to assist her in her retirement from the partnership, that solicitor had said that specialist accountants were required and during the summer of 2012 those accountants had looked at the financial position of the Firm and had created a detailed proposal to put to the Bank.
100. The Second Respondent had found out about the forensic investigation in early September 2012 when he had received a telephone call from the IO; at that time he

had known nothing about any ongoing investigation. When he had become aware of the extent of the problems at the Firm he had tried to assist. The clients involved were connected in some way with the First and Fourth Respondents. Someone called "I" had been articulated at the firm and "D" was a friend of the First Respondent. It eventually had become clear that the problems with the I file were not isolated events and that the First Respondent had effectively been systematically "teeming and lading" client monies and had told the same story to everyone.

101. He had put all of his efforts into trying to effect an orderly closure of the majority of the firm's business. Ultimately the Firm had had to close as the Bank withdrew all overdraft facilities and there were no further monies to fund the PII. By the end of October 2012 it had become clear that an intervention into the Firm would be required and that had occurred in January 2013.
102. The Second Respondent said he accepted that all of this had occurred whilst he had been a partner of the Firm, although his Department had been well run. He had relied upon the fact that there was a managing partner and an office manager in place for the smooth running of the Firm as a whole. He had not been ignoring issues with the finances of the Firm but was simply taken up by the volume of his work and the enormous amount of time he had to spend in Court. It was significant that the specialist professional accountants had not picked up the issues highlighted by the Applicant.
103. The Second Respondent said that he entirely apologised for what had occurred.

#### The Third Respondent

104. Mr Foreman referred the Tribunal to the Third Respondent's very detailed statement dated 3 December 2013 and to the Exhibit bundle TS1 that was before it. Mr Foreman took the Tribunal through the chronology both of the matter and of the Third Respondent's personal circumstances at the time in some detail. In essence, it was the Third Respondent's position that although she had been a partner of the Firm there was a lack of respect for her and the culture of the Firm was such that she had little influence and control over it.
105. The Third Respondent had met the First Respondent at school where they had been friends.
106. In 2009 the Third Respondent's husband had been diagnosed with a serious medical condition which had triggered an accelerated deterioration in her mental health. In September 2011 the Third Respondent's father died and she had suffered a nervous breakdown. On 28 October 2011 she had told the other partners that she wished to retire from the partnership but they had reacted badly and said they wished to dissolve the partnership. She did not want this to happen as she was concerned about the jobs of the staff and felt that she could negotiate the position.
107. Although she had not given the other partners notice in writing, she knew that she could no longer practise and in November 2011 she had left the Firm on sick leave and had never returned. Following her departure, save for £1,000, she had not received any other monies from the Firm in respect of her share of the business.

108. She had continued to work hard to ensure that the Firm was re-structured; she had thought that the business was viable and was unaware of any regulatory issues. She had attempted to negotiate her retirement in a manner that would allow the Firm to continue. She wanted to employ a specialist turnaround firm to deal with the bank and cooperate with the firm of accountants appointed by the bank to report on the viability of a re-structure. However the First Respondent in an email of 18 November 2011 refused her suggestion to bring in the turnaround firm. At a meeting with the First and Second Respondents on 23 November 2011 all of the options she suggested, including her paying £85,000 to take eleven files were rejected, so on 6 December 2011 she instructed another solicitor to assist her with her negotiations. He attempted to request financial information from the Firm but little was received, although the bank obtained some information from the First Respondent on 15, 22, and 27 March 2012. At a meeting with her solicitor and a member of the firm of accountants appointed by the bank on 18 May 2012 she had asked about reporting the Firm to the SRA but was advised that it would be better to wait and go to the SRA with a jointly agreed plan. However since the partners continued to refuse to restructure the firm and provide her with proper financial information, she still wanted to report the Firm to the SRA. Eventually she self-reported the financial issues at the Firm on 17 August 2012; at that stage she had no idea that there was a forensic investigation underway and was unaware of the First Respondent's activities.
109. The First and Third Respondents had bought three buy-to-let properties together in 2006. In 2007 two of these properties had been re-mortgaged and since the First Respondent was a conveyancer she had dealt with the remortgages and the redemption of the original RBS mortgages upon those properties. The Third Respondent was happy to let it do so as she had no experience of conveyancing. The First Respondent had informed her initially that the remortgages were delayed as a result of RBS failing to provide a redemption figure and had given her other reasons for the delay. However, the other banks were asking why their charges had not been registered and the Third Respondent had complained to RBS concerning the matter and had also attempted to write to the Ombudsman but her letter was taken for typing by the First Respondent and she suspected that it was never sent. The First Respondent had eventually informed her that the RBS mortgages had been redeemed.
110. The Third Respondent was now aware that the re-mortgage monies had indeed been received by the Firm at the correct time and that they should have been paid out on the same day to redeem the RBS charges. Instead, those monies had been paid by the First Respondent into a joint personal bank account in the names of herself and the First Respondent, which had been set up to receive rental payments and make monthly mortgage repayments.
111. Eventually the £186,000 had been transferred to the Firm's client account by the First Respondent just four days after the Third Respondent's meeting with the partners on 28 October 2011 to announce that she was retiring from the partnership. As could be seen from the Applicant's bundle, these monies apparently financed the I Transaction but had actually come not from HSBC but from the jointly held personal bank account where the re-mortgage monies were held.
112. The Third Respondent had continued to receive envelopes from RBS throughout this period with what looked like statements inside but had given all of them to the First



Respondent to deal with at her suggestion; she had assumed the statements related to a small amount of interest that the First Respondent had told her was still in dispute.

113. It was not until March 2012 that she became aware that the RBS mortgages had not been redeemed and she confronted the First Respondent who said that she would redeem them forthwith. Unbeknown to her the First Respondent redeemed the mortgages and repaid the monies not from her own personal resources but from the Firm's client account.
114. The First Respondent had provided a plausible explanation as to how the shortfall of £185,000 on client account had arisen in management meetings. She had originally said that she had completed a conveyancing transaction and that the mortgage finance had not been received from the bank but that it should arrive at any time. She detailed the steps that she had been taking to resolve the issue and said that she had reported the matter to the SRA and the Firm's insurers. As a matter of fact the shortfall was reported by the Firm's accountants and it was instructive to note that the reporting accountants found nothing else of interest. The First Respondent had given a plausible excuse and had even mentioned the Ombudsman and the name of the person that she was dealing with there.
115. Mr Foreman said that one could only speculate as to the cause of the original shortfall. However, the I matter had been fabricated and the First Respondent had only admitted that to the IO after eight months had elapsed. Even then she still lied to the IO by saying that she was covering-up mistakes. In Mr Foreman's submission these were not mistakes. In particular the £186,000 had been held on trust and was not her personal fund to do with as she liked and she had known that that was the case.
116. The other accounting breaches accepted were a direct result of the First Respondent's actions and were dealt with extensively in the Third Respondent's witness statement. In the case of all of these transactions they took place after the Third Respondent had physically left the Firm and whilst she was still asking persistently for information concerning the accounts in order to retire from the partnership. However, this information was not being provided.
117. The Third Respondent recognised that as a principal she remained responsible for the accounting breaches and that she should have checked that the First Respondent had reported the circumstances behind the shortfall of £185,000 as she said she had done. In Mr Foreman's submission, the Tribunal should recognise that the Third Respondent had trusted implicitly the First Respondent due to their shared history and friendship; she was unaware of what had been taking place and she was not suspicious concerning the activities of the First Respondent. In any event she had not been present at the office after September 2011.
118. In Mr Foreman's further submission the Second and Third Respondents were victims of the First Respondent. They would not be before the Tribunal today but for the actions of the First and the Fourth Respondents. The Firm had ceased to be financially viable as a result of the First Respondent's actions. The Third Respondent deserved credit for bringing the financial issues at the Firm to the attention of the SRA, even though unbeknown to her a forensic investigation had already commenced.

119. In addition, the Third Respondent had been ill and her retirement from the partnership had been delayed because of her concerns about staff redundancies should the other partners dissolve the practice.
120. The Third Respondent had fully co-operated when she had become aware of the forensic investigation. She had been the first of the Respondents to provide a substantive response and the first to admit the allegations. She had also been the only Respondent to have complied with all of the Tribunal's Directions.
121. It was not going too far to say that the First and Fourth Respondents had destroyed the lives of the two Respondents present today. The Second Respondent had lost her £85,000 capital contribution to the Firm and was still servicing the loan. She was liable for the Firm's debts and had been made bankrupt on 11 March 2013; she had been on police bail since 21 November 2012 and all of this was on top of her existing mental health problems. She had lost her earning capacity of some £22,000 per annum and had received no income from the Firm during or after her absence on sick leave in November 2011. In contrast the First and Second Respondents had continued to take drawings from the Firm.
122. In Mr Foreman's submission, the extent of the Second Respondent's culpability was low; she had not caused the circumstances underlying the allegations and she had taken significant steps to attempt to rectify the position.
123. Finally, the Tribunal was invited to read the bundle of personal testimonials before it which had been given by referees who were all aware of the allegations against the Third Respondent

### **Sanction**

124. The Tribunal referred to its Guidance Note on Sanctions when considering sanction.
125. The Tribunal had found this to be a very sad and disturbing case. The First and Fourth Respondents had clearly been deliberately and systematically defrauding those around them for a lengthy period of time, including the Second and Third Respondents. In all of the circumstances presented to the Tribunal the only fair and proportionate penalty to protect the public and maintain the reputation of the profession was that the First Respondent be struck off the Roll of Solicitors and that the Section 43 Order sought by the Applicant against the Fourth Respondent, be made.
126. The Tribunal noted that neither the Second nor the Third Respondent had derived any benefit from the matters complained of by Applicant.
127. The Second Respondent was a senior partner in the Firm with many years' experience and a hitherto unblemished record. He was present throughout the last year of trading of the Firm and perhaps could have done more than he did to rectify the position and take control of matters. However when the problems did come to light he was helpful and cooperative and organised the orderly dissolution of the Firm. The Tribunal had considered very carefully the nature of the allegations proved against the Second Respondent and his mitigation. In all the circumstances it was the Tribunal's determination that a fair and proportionate penalty to reflect the culpability of the

Second Respondent would be a fine of £10,000. However given his financial situation, which had been fully detailed in his Statement of Means, and applying the principles in D'Souza v The Law Society [2009] EWHC 2193 (Admin) and SRA v Davis and McGlinchey [2011] EWHC 232 (Admin) the Tribunal would mitigate that fine and impose one of £2,000.

128. The Third Respondent had suffered health problems over a period of years and had made a sustained and consistent effort to extricate herself from the partnership since late 2011 and had not been physically present at the Firm at the time of the matters complained of by the Applicant. She made efforts to instruct and take advice from third parties concerning the Firm's financial situation and took ultimate responsibility for notifying the SRA. The Tribunal noted that she had been made bankrupt and had clearly suffered enormous losses as a result of what had occurred and had taken full account of the mitigation contained both within her witness statement and put forward on her behalf by Mr Foreman. However, she was a partner at the relevant time with all the responsibilities that went with partnership and that fact was reflected in the sanction to be imposed upon her. The Tribunal found that the appropriate sanction on the Third Respondent in all the circumstances before it was that of a Reprimand.

### **Costs**

129. Mr Dunn referred to the Costs schedule in the matter and confirmed that total costs were some £48,787.85. Costs had been agreed in the sum of £8,420 against each of the Second and Third Respondents, to be paid on a several basis.
130. The Second Respondent told the Tribunal that he was bankrupt and that his property had been repossessed. Similarly, Mr Foreman informed the Tribunal that the Third Respondent had no disposable income, her home had been repossessed and she had been made bankrupt. So, in view of both of these Respondents' financial position, full details of which were before the Tribunal, the Tribunal was asked to make an order that such costs were not to be enforced without the further leave of the Tribunal.
131. Mr Dunn asked that an order be made against the First and Fourth Respondents for the remainder of the costs of £31,947.85 on a joint and several basis. There was no evidence before the Tribunal concerning the financial position of either of these Respondents, although it was believed that they were not bankrupt and the First Respondent was the joint owner of a property.

### **The Tribunal's Decision on Costs**

132. The Tribunal would make the costs orders requested against each of the Respondents. It was satisfied that the division of costs between the Respondents represented their respective culpability and involvement in the wrongdoing before the Tribunal. Each Respondent has been reminded by the Applicant of the need to provide full details of their financial situation to the Tribunal if they wished their means to be taken into consideration by the Tribunal in relation to possible sanctions and/or costs, following the decision in SRA v Davis and McGlinchey [2011] EWHC 232 (Admin).
133. The Tribunal had examined carefully the Costs Schedule submitted by the Applicant and had summarily assessed costs in the amount requested by the Applicant of

£48,787.85. The Second and Third Respondents had provided full details of their financial position and the Tribunal had been able to take that into account in making a delayed order for costs. However, nothing had been heard from the First Respondent concerning her means and there had been no engagement whatsoever by the Fourth Respondent. In those circumstances the Tribunal was unable to take their financial circumstances into account and would make an immediate order for costs against the First and Fourth Respondents in the amount requested by the Applicant.

### **Statement of Full Orders**

134. The Tribunal Ordered that the Respondent, Kimberley Bridge, solicitor, be struck off the Roll of Solicitors and it further Ordered that she do be jointly and severally liable with Nicola Roach to pay the costs of and incidental to this application and enquiry fixed in the sum of £31,947.85.
135. The Tribunal Ordered that the Second Respondent, solicitor, do pay a fine of £2,000 pounds such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,420.00, such costs not to be enforced without leave of the Tribunal.
136. The Tribunal Ordered that the Third Respondent, solicitor, be Reprimanded and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £8,420.00, such costs not to be enforced without leave of the Tribunal.
137. The Tribunal Ordered that as from 15<sup>th</sup> April 2014 except in accordance with Law Society permission:
- (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor Nicola Roach;
  - (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitors practice the said Nicola Roach;
  - (iii) no recognised body shall employ or remunerate the said Nicola Roach;
  - (iv) no manager or employee of a recognised body shall employ or remunerate the said Nicola Roach in connection with the business of that body;
  - (v) no recognised body or manager or employee of such a body shall permit the said Nicola Roach to be a manager of the body;
  - (vi) no recognised body or manager or employee of such a body shall permit the said Nicola Roach to have an interest in the body;

and the Tribunal further Ordered that she do be jointly and severally liable with Kimberley Bridge to pay the costs of and incidental to this application and enquiry fixed in the sum of £31,947.85.

Dated this 30<sup>th</sup> day of May 2014  
On behalf of the Tribunal

K. Todner  
Chairman

