SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 11219-2014

BETWEEN:

SOLICITORS REGULATION AUTHORITY Applicant

and

RUSSELL JAMES ROLLINGS Respondent

Before:

Mr A. G. Gibson (in the chair)
Mr L. N. Gilford
Mr S. Marquez

Date of Hearing: 15 September 2014

Appearances

Andrew Bullock, Counsel employed by the Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham B1 1RN appeared for the Applicant

The Respondent appeared in person

JUDGMENT

Allegations

1. The allegations against the Respondent, Russell James Rollings made upon behalf of the Applicant, the Solicitors Regulation Authority were that:

1.1 On various occasions between March 2002 and June 2012 he withdrew sums held on the client account on behalf of one client ("Client A") in order to make a payment to, or on behalf of, a second client ("Client B") without having received instructions from Client A to make that payment in breach of:

1.1.1 (In relation to the period up to 5 October 2011) Rules 1.02, 1.04 and 1.06 of the Solicitors Code of Conduct 2007 ("SCC 2007") and Rule 22(1) of the Solicitors Accounts Rules 1998 ("SAR 1998");

1.1.2 (In relation to the period after that date) Principles 2, 4, 6 and 10 of the SRA Principles 2011 and Rule 20.01 of the SRA Accounts Rules 2011 ("SAR AR 2011").

1.2 On various other occasions between those same dates he transferred money held in a general client account of Burges Salmon LLP from the ledger of one client ("Client X") to the ledger of another client ("Client Y") in order to make a payment from the general client account on behalf of Client Y without having received instructions from Client X to make that payment or transfer in breach of:

1.2.1 (In relation to the period up to 5 October 2011) Rules 1.02, 1.04 and 1.06 of the SCC 2007 and Rule 22(1) of the SAR 1998;

1.2.2 (In relation to the period after that date) Principles 2, 4, 6 and 10 of the SRA Principles 2011 and Rule 27.1 of the SRA AR 2011.

1.3 He procured the making of the transfer of the sum of £32,575.44 from a ledger in the name of Mrs SH to a ledger in the name of SSE&T by making statements which were untrue, and which he knew or should have known to be untrue, in breach of Principles 2 and 6 of the SRA Principles 2011.

1.4 He made untrue statements to Mr H in relation to the administration of the estate of Mrs SH in breach of Principles 2, 4 and 6 of the SRA Principles 2011.

1.5 He used a suspense account in circumstances where he could not justify its use in breach of Rule 32(1) SAR 1998 and Rule 29.25 SRA AR 2011.

1.6 In relation to allegations 1.1–1.4, it was further alleged that the Respondent was dishonest. However, dishonesty was not an essential ingredient of the allegations against him.

Documents

2. The Tribunal reviewed all the documents, including:

Applicant:

- Rule 5 Statement dated 23 January 2014, with exhibit
- Witness statement of Mr PM dated 2 May 2014 with exhibit
- Witness statement of Mr CB dated 7 May 2014 with exhibit
- Applicant's Certificate of Readiness and relevant Notices
- Statement of costs

Respondent:

- Certificate of Readiness dated 17 February 2014
- Respondent's Reply to the Rule 5 Statement dated 19 February 2014
- Letter from the Respondent to the Tribunal dated 29 August 2014 enclosing:
- Personal Financial Statement dated 28 August 2014

Preliminary Issues

3. It was understood by the Tribunal that the Respondent admitted allegations 1.1 to 1.5 and the Tribunal asked for this to be confirmed. Mr Bullock submitted that this was the case save that he understood that the Respondent did not necessarily accept all the facts relied on by the Applicant. The Respondent agreed with this submission. The Respondent later changed his plea and admitted the allegation of dishonesty (see below under Findings of Fact and Law in respect of allegation 1.6). Following that admission, the Tribunal authorised the Applicant's witnesses to be released without giving oral evidence.

Factual Background

4. The Respondent was born in 1974 and admitted to the Roll of Solicitors in 2007 and his name remained on the Roll.

5. From 1 October 2007 to 2 July 2012, the Respondent was employed as an Associate within the Private Client and Wealth Structuring Department of Burges Salmon LLP ("the firm") practising from its offices in Bristol.

6. On 20 July 2012, a client of the Private Client and Wealth Structuring Department of the firm, Ms G raised concerns regarding a statement she had received from HMRC. On review of the file carried out by the firm, it appeared that a payment of £735.13 had been made on her behalf to HMRC but the funds had been drawn from an unrelated client's account MN on 10 April 2012. The transaction had been authorised by the Respondent.

7. The firm undertook an investigation of the Respondent's files and identified 37 transactions which they considered were "irregular" in that transfers of money were made between unrelated client accounts; payments to third parties were made from unrelated client accounts; and that the Respondent made improper use of a

miscellaneous client account. The irregular transactions were detailed in the firm's letters dated 29 August 2012 and 12 November 2012 addressed to the Relationship Manager employed by the Applicant.

8. The transactions created a shortage on client account of £6,291.37 which was met by the firm, which also made interest payments to the affected clients where appropriate.

9. The firm (Mr PM Managing Partner) wrote to the Respondent on 21 September 2012, setting out the detail of the client account irregularities discovered and advising him that the matter had been reported to the Applicant.

10. Subsequently on 13 November 2012, Mr Oliver Baker an Investigation Officer ("IO") employed by the Applicant commenced an inspection of the firm's books of accounts which culminated in a Forensic Investigation ("FI") Report dated 16 July 2013.

11. In the course of the inspection, Respondent was interviewed in connection with his employment at the firm and a copy of the transcript of that interview was before the Tribunal.

Allegations 1.1 to 1.3

12. The investigation found that the Respondent had made payments on behalf of client A, using funds from client B, and then reimbursed from client A at a later date. This had occurred on four client matter files on four occasions, the total amount of the reimbursed payments being £22,264.67.

13. The Respondent had also made payments on behalf of client A, using funds from client B, and then reimbursed client B an incorrect amount at a later date. This had occurred on two client matter files on two occasions, the total amount of the payments being £30,519.68 and the total amount reimbursed being £33,155.12 leaving a sum of £2,635.44 having been incorrectly reimbursed.

14. The Respondent had made payments on behalf of client A, using funds from client B and/or client C but no reimbursement was made at a later date. This had occurred on seven client matter files on eight occasions, the total amount of the unreimbursed payments being £23,048.51.

15. The Respondent had used an unconnected client account to process a refund. This had occurred on one client matter file on one occasion, the total amount of the refund being £12.05.

16. The Respondent had transferred funds between client accounts in order to reduce the account balance to zero and close the file. This had occurred on three client matter files on three occasions, the total amount of the transfers being £2.68.

17. The conduct of the Respondent in making improper withdrawals was exemplified by the matter of the estate of Mrs SH deceased.

Estate of Mrs SH deceased

18. The Respondent acted for the husband who was also the executor and residuary beneficiary of Mrs SH in the administration of her estate. Mrs SH left pecuniary legacies totalling £320,000 to 17 beneficiaries. The Respondent made 16 legacy payments leaving a balance on the client account of £219.01.

19. A final legacy payment in the sum of £30,000 was made on 27 September 2011 to CM. There were insufficient funds remaining on Mrs SH's client account because some of the estate's share portfolio remained unsold. The payment to CM was made from an unrelated client ledger of SSE&T, a suspense account maintained by the firm.

20. The Capital Account statement for the period 1 October 2011 to 1 October 2012 showed that on 31 May 2012, the portfolio of shares held by the estate was sold for £32,575.44. On 20 June 2012, the proceeds of sale were received into the client account of the firm and correctly credited to the client account ledger in relation to the estate.

21. The firm's reference for the matter of Mrs SH was 38000.1. The reference number for the SSE&T matter was 1947.1.

22. Subsequently on 22 June 2012, the Respondent sent an e-mail to the firm's accounts department under the subject heading which referenced the matter of Mrs SH and which said:

> "I've given the wrong reference number to a brokers! Can the recent receipt of £32,575.44 be transferred to 1947.1? Thanks, Russ"

23. The net effect of the above inter client transfers was that the client ledger of SSE&T was credited with £2,575.44 which belonged to Mrs SH's estate.

24. The Respondent admitted in his e-mail of 27 August 2013 to the Applicant and during interview on 28 May 2013 with Mr Baker and another IO in which the matter of Mrs SH deceased was discussed in detail that his conduct in making such transfers and withdrawals breached the Accounts Rules. In the following extract from the transcript of his interview on 28 May 2013 OB is the IO Mr Oliver Baker and RR is the Respondent:

> "OB: ok, so to be clear from what you discussed and what you said you will accept that the [CM] payment has come from an unrelated client ledger account
>
> RR: yeah I mean we may be able to skip much of the requests that you have, I accept the letter
>
> OB: ok
>
> RR: of the 21 September 2012 by [Mr PM]
>
> OB: in its entirety

RR: absolutely"

25. The Respondent further admitted that he prepared the payment slip in order to authorise the transfer from SSE&T to CM. He also confirmed:

> "So I think I probably used some money from a different account in the hope that it would come through on same day and be able to transferred back"

26. The Respondent accepted that by making the payment from an unrelated client account, he created a shortage on that client account in breach of Rule 28(8) of the SAR 1998.

> "OB: when the payment was made the [CM] payment that came from… the unrelated ledger [SSE&T] £30,000 payment can you please confirm that in making that payment you created and you were aware that you were creating a shortage on client account in the same amount in breach of Rule 28(8) of the Solicitors Accounts Rules.
>
> RR: in hindsight yes at the time obviously I'd would expected it to be repaid same day and it was just a physical I don't know it was particularly aware of that at that time"

27. The Respondent was asked to comment on the e-mail to his accounts department and to respond to the allegation that the e-mail was dishonest and designed to mislead the accounts department in order to replace funds improperly paid out. He accepted the transfer of funds was made to SSE&T to repay the earlier improper withdrawal but denied making misleading or dishonest comments.

28. The Respondent made a number of admissions during interview on 28 May 2013 namely that he had failed to act with integrity, failed to act in the best interests of clients, failed to behave in a way that maintained the trust in public placed in him and in the provision of legal services, and failed to protect client money and assets.

<u>Allegation 1.4</u>

29. This allegation arose out of an exchange of letters between the Respondent and Mr H, regarding the administration of Mrs SH's estate.

30. On 17 August 2011, the Respondent advised Mr H:

> "You will be aware that we have encashed the entirety of the liquid assets within the estate and we currently hold a little over £149,000 here. I would therefore need to obtain further funds in order to make these payments. As the holding in [H Ltd] is to pass to your two daughters, the remaining assets are the house and various chattels. I would therefore suggest it may make sense for you to provide a cheque for the balance of legacies…"

31. On 2 September 2011, the Respondent again wrote to Mr H about issues relating to administration of the estate and the specific issue of a query that he had raised about some figures. The letter included:

> "The reason for the discrepancy is that we are still awaiting some of the share sale proceeds. Although these were sold some time ago the cheques were issued in such a way as that they could not be paid in to our client account. I hope to have these within the next week or two. At that point, I will then be able to indicate exactly how much is required from you and will request a cheque at that point."

32. On 6 September 2011, the Respondent wrote to Mr H, including:

> "Further to our conversation earlier this morning, please find enclosed a Schedule of the sale proceeds for the stocks and shares in your late wife's estate. You will see that they were sold during the course of June and given the turmoil within the markets, I think the sale proceeds are reasonable.
>
> I have spoken further with the Registrars and anticipate that these funds will be with you within the next day or two..."

33. On 1 November 2011, the Respondent wrote to Mr H enclosing a "Final Estate Account" which indicated that his late wife's shares had been sold for £31,206.76. In fact the shares were not sold until 31 May 2012 and the share sale proceeds were £32,575.44.

34. On 13 April 2012, the Respondent wrote to Mr H stating that stock transfer forms had been mislaid by Q & Co, stockbrokers and the selling agents and asking for duplicate forms to be completed. The IO could not locate any such correspondence/notification from Q & Co.

35. During interview on 28 May 2013, the Respondent was questioned about various statements he had made and he said:

> "I mean again I think you know as I've said in relation to those letters at that time when they were drafted that was the situation as I thought it was at that time, looking back I could of written to him and said do you know what I sent this letter on such and such a date and it hasn't happened and this has gone wrong and that's gone wrong and I should of just dealt with just like that so I could see that I think probably that the misleading comes from omissions of what I should of done than what I did do"

<u>Allegation 1.5</u>

36. The firm also identified 20 matters where the Respondent paid client monies into and out of a miscellaneous client account ledger maintained by the firm. These were detailed in the firm's letter to the Applicant dated 29 August 2013.

37. In accordance with Rule 32(16) SAR 1998 and Rule 29.25 SRA AR 2011, suspense client ledger accounts may only be used when the solicitor can justify their use, for instance for temporary use on receipt of an unidentified payment if time is needed to establish the nature of the payment or the identity of the client. There was no appropriate use for suspense client account ledgers in the circumstances of the transactions identified.

38. During interview on 28 May 2013, the Respondent stated:

> "I mean there are some things in there they say about paying money into I think it's a miscellaneous account everybody at [the firm] did that, if a file was closed and you got a payment through afterwards you're paying into and pay out next day it's just pay we all had miscellaneous accounts with our initials after and that was the point they did shut them down actually which you'll probably see from the timescale because obviously I'm not sure if the rules changed or whether they just updated their practice but so I mean those I you know everybody did that literally"

39. The firm confirmed that miscellaneous client account ledgers were held by other solicitors in the practice which were used mainly to facilitate the filing and retrieval of miscellaneous correspondence including attendance notes recording potential new instructions and non-file specific documents such as day books. Those accounts were closed in late 2006/early 2007. The firm did not accept that miscellaneous ledgers were issued to every lawyer and provided detailed information to corroborate that (see the submissions for the Applicant below).

Witnesses

40. There were no witnesses.

Findings of Fact and Law

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

(The submissions recorded below include those made orally at the hearing and those in the documents.)

42. **Allegation 1.1 - On various occasions between March 2002 and June 2012 he [the Respondent] withdrew sums held on the client account on behalf of one client ("Client A") in order to make a payment to, or on behalf of, a second client ("Client B") without having received instructions from Client A to make that payment in breach of:**

    1.1.1 (In relation to the period up to 5 October 2011) Rules 1.02, 1.04 and 1.06 of the SCC 2007 and Rule 22(1) of the SAR 1998;

    1.1.2 (In relation to the period after that date) Principles 2, 4, 6 and 10 of the SRA Principles 2011 and Rule 20.01 of the SAR AR 2011.

    Allegation 1.2 - On various other occasions between those same dates he [the Respondent] transferred money held in a general client account of Burges Salmon LLP from the ledger of one client ("Client X") to the ledger of another client ("Client Y") in order to make a payment from the general client account

on behalf of Client Y without having received instructions from Client X to make that payment or transfer in breach of:

1.2.1 (In relation to the period up to 5 October 2011) Rules 1.02, 1.04 and 1.06 of the SCC 2007 and Rule 22(1) of the SAR 1998;

1.2.2 (In relation to the period after that date) Principles 2, 4, 6 and 10 of the SRA Principles 2011 and Rule 27.1 of the SRA AR 2011.

42.1 For the Applicant, Mr Bullock submitted that the Respondent initially worked at the firm as an unadmitted fee earner and from the date of his admission as a solicitor as an Associate. Mr Bullock reminded the Tribunal that it had jurisdiction to consider the conduct of, and to impose sanctions on an individual who was not a solicitor at the time of the actions complained of but who had since been admitted as a solicitor (Re a Solicitor (Ofosuhene) 21 February 1997 unreported). The Respondent had left the firm on 3 July 2012 for reasons unconnected with the allegations to join another firm of similar profile. He subsequently left that firm and was currently working outside the profession. Mr Bullock reminded the Tribunal of how the firm's internal investigation came about. It was quite a large exercise involving a number of people and it had been planned that the Tribunal would hear witness evidence from Mr PM the Managing Partner of the firm who had oversight of the investigation and who subsequently assumed responsibility for dealing with the Respondent and with the Applicant about what was unearthed. In the papers there were letters from the firm to the Respondent and the Applicant of which generally Mr PM was the author, although there was one e-mail sent by another individual. It had also been proposed that the Tribunal would hear from Mr CB, the Financial Controller of the firm who was the individual responsible for extracting data from the firm's accounting systems and reviewing financial transactions on the Respondent's files. References to financial information emanating from the firm were to data collected and analysed by CB.

42.2 Mr Bullock submitted that by August 2012. The investigation had identified potentially irregular transactions authorised by the Respondent, including transfers between unrelated client accounts resulting in deficit and excess and payments to third parties drawn on unrelated client accounts. These could not reasonably be explained as administrative errors. The investigation identified a possible maximum net deficit on client account of less than £3,000. It also confirmed that no evidence could be located that the Respondent was personally the beneficiary of any of these irregularities. No evidence was ever unearthed subsequently to suggest that he had benefitted directly and taken money from the accounts and put it into his own pocket. On the basis of these findings, Mr PM contacted the firm's Relationship Manager at the Applicant on 3 August 2012 to notify the situation by telephone. There was no attendance note of what was said but that contact was referred to in a subsequent written conduct report made by Mr PM to the Relationship Manager on 10 August 2012.

42.3 There were four subsequent letters from Mr PM to the Applicant dated 29 August 2012, 12 November 2012, 20 December 2012 and 26 April 2013. Mr Bullock submitted that the correspondence taken together showed that the firm's investigation succeeded in identifying 21 occasions between 23 October 2002 and 29 June 2012 when the Respondent either improperly withdrew sums on client account for one

client to make payment to or on behalf of a second client or made transfers between unrelated clients, apparently to rectify the shortage occasioned by the improper withdrawal. The amounts involved ranged widely; the largest amount involved was £32,000 and the smallest 2p; the latter had been made to enable a file to be closed. These transactions had resulted in a shortage on client account of £6,291.37 (as set out in the firm's letter dated 5 November 2013). After the Respondent made an improper withdrawal, he did not always transfer enough money over to rectify the shortfall that he had created. As well as corresponding with the Applicant, the firm also corresponded with the Respondent. Its letter dated 21 September 2012 set out the initial problems which had been identified; 34 transactions where there had been improper withdrawals, improper transfers or use of the suspense account and these transactions corresponded exactly to those identified in the letter to the Applicant of 29 August 2012. In the course of the interview with the IO, the Respondent accepted the letter sent on 21 September 2012 from the firm in its entirety and as a consequence accepted that he had breached the SAR 1998, the SCC and the Principles by reason of the actions on his part described in the letter. Also he stated in respect of the transactions identified:

> "... it was a lapse of judgement and unfortunately I can sit here and be perfectly frank with you and say I realised it was a lack of judgement at the time I do remember those where I did wrong because it was not as it should be"

42.4 A copy of the FI Report was sent to the Respondent with a letter dated 13 August 2013. He was asked to confirm whether he agreed with the comments attributed to him in the FI Report. The Respondent provided his response by way of an e-mail dated 27 August 2013. He confirmed:

> "I accept the majority of the allegations albeit with mitigating circumstances."

42.5 On the basis of the evidence and admissions, Mr Bullock submitted that allegations 1.1 and 1.2 should be found proved.

42.6 The Tribunal considered the Submissions for the Applicant, the evidence and the admissions of the Respondent and found allegations 1.1 and 1.2 proved to the required standard, indeed they were admitted.

43. **Allegation 1.3 - He [the Respondent] procured the making of the transfer of the sum of £32,575.44 from a ledger in the name of SH to a ledger in the name of SSE&T by making statements which were untrue, and which he knew or should have known to be untrue, in breach of Principles 2 and 6 of the SRA Principles 2011.**

Allegation 1.4 - He made untrue statements to Mr H in relation to the administration of the estate of SH in breach of Principles 2, 4 and 6 of the SRA Principles 2011.

43.1 For the Applicant, Mr Bullock submitted that allegations 1.3 and 1.4 related to the estate of Mrs SH. The estate was substantial; estate accounts put its total value at approximately £4 million. Its value derived in large part from illiquid assets; a house

and in particular a substantial shareholding in H Ltd an unlisted family company. Neither asset could be sold. Having regard to the fact that Mrs H died on 9 November 2010, by August 2011 the Respondent started to be under some time pressure to wind up the estate and he needed to pay the 17 pecuniary legacies, totalling £320,000 to individual beneficiaries. The Respondent could not do this unless he first managed to sell shares in listed companies, described as the "main portfolio" in the Estate Capital Account. On 17 August 2011, the Respondent wrote to Mr H as set out in the background to this judgment. Mr Bullock submitted that it was untrue to say in that letter that the entirety of the liquid assets had been encashed because the shares were not sold until the following year. The point was put to the Respondent in the interview by the IO:

> "OB: ...do you remember or do you consider at any time that you misled Mr [H] in relation to the administration of his late wife's estate
>
> RR: not that I recall
>
> OB: ok if you want to have to look at the letter dated the 17 August 2011 now it is stated within that letter that the entirety of the liquid assets within the estate had been cashed
>
> RR: um
>
> OB: however, it wasn't until the 20 June 2012 that [Q & Co] paid the share profit from Mrs [H's] shares portfolio
>
> RR: yeah there was an issue with some of the I can't remember exactly it's a long time ago but
>
> OB: no I appreciate
>
> RR: I recall it was something along the lines we thought they'd all been encashed when that letter was written I certainly thought everything had been encashed and all been dealt with and obviously it hadn't because the shares I can't remember if they came to light or they were put the share certificates away in the store room I can't remember"

43.2 On 2 September 2011, the Respondent again wrote to Mr H about issues relating to the administration of the estate and the specific issue of a query that he had raised about some figures. Mr Bullock submitted that there was a slight change of emphasis in this letter; whereas previously the Respondent said that the entirety of the liquid assets had been encashed, he now said that he was awaiting some of the share sale proceeds and that he did not have a cheque in a form he could use. The Respondent was asked about this in the interview in the following exchange:

> "OB: ok the next letter we have is dated the 2 September 2011 and within that letter it states, we're still awaiting some of the share sell proceeds and it also states further on although these were sold some time ago the cheques were issued in such a way that as they could not be paid into our client accounts, now again given that in the light of really [Q &

Co] and the payment they made into the account in June that was from the sale of the shares at the end of May 2012 so do you stand by the statement within that letter.

RR: I think it was the shares that I put forward to be sold there was a couple or there were some dividends or something that they'd been made out to the executors rather than the

OB: ok

RR: so yeah"

43.3 Mr Bullock submitted that the Respondent was now saying that there was a problem with dividends. The Tribunal could take its own view of the credibility of that explanation. It was one that in fairness to the Respondent he seemed to have retreated from somewhat. In response to an enquiry from the Tribunal as to whether the Applicant investigated whether some cheques were issued and not paid in, Mr Bullock responded that it was known when the cheques were paid in, 31 May 2012. The Applicant had not taken up with Q & Co whether cheques had been issued in such a way that they could not be paid in but there seemed no evidence to indicate that was the case. Mr Bullock submitted that there was a lack of internal consistency in the explanation which the Respondent gave for his actions over time. Mr Bullock had carried out a "compare and contrast" exercise between the Respondent's letters of 2 September 2011 and 17 August 2011. In his e-mail dated 27 August 2013 to the Applicant, the Respondent said:

> "Misleading the client: I refer you to the transcript of my interview with Oliver Baker. It was never my intention to mislead the client. I was simply trying to progress matters which I believed would be rectified almost immediately..."

His position by then was not that he had cheques and could not pay them in but that he was trying to progress matters which he believed could be rectified. The allegations of misleading the client were admitted but the Tribunal might think these issues strengthened the allegation of dishonesty.

43.4 Mr Bullock submitted that the next letter from the Respondent to Mr H was dated 6 September 2011 in which he referred to the purported sale of the shares in June 2011, enclosing a schedule of the sale proceeds and commenting on the reasonableness of the sums realised. Mr Bullock referred the Tribunal to a document "Schedule 1: Stocks & Shares" which he described as a schedule of the sale proceeds for the shares in the main portfolio. It gave a probate value for the shares of £31,206.76. He submitted that it indicated unequivocally that all save one of the shares were sold on 6 June 2011 and that one type of share was sold on 8 June 2011 but the sales could not have taken place at that date as was known from what later transpired. It was instructive to look at the document which the stockbrokers produced at the point of sale alongside this schedule, which Mr Bullock submitted was an amended version of Schedule 1 to the Estate Accounts. The Estate Capital Account stated "Stocks & Shares (as per Schedule 1)" and the Administration Capital Account referred to "Loss on sale of shares (see schedule 1) £753.21". Mr Bullock submitted

that the figures appended to the letter of 6 September 2011 were fictitious or at best an estimate. In interview, there were the following exchanges:

> "OB: The next letter I've got is the 6 September 2011 and enclosed with that was a schedule of sale proceeds for the stocks and shares in the estate now that should be, that should be attached
>
> RR: yep
>
> OB: immediately afterwards
>
> RR: um
>
> OB: Do you consider I mean I've just ask you again to review the content of that letter
>
> RR: yep
>
> OB: and the attached schedule, in light of [Q & Co's] payments to client account in relation to the shares in June 2012
>
> RR: they were the figures that I'd calculated as would have been coming from the share sale proceeds
>
> OB: ok so it was an estimate
>
> RR: it was calculated using the prices at the time"

43.5 Mr Bullock submitted that the Respondent accepted in these exchanges that the figures in the Schedule attached to the 6 September 2011 letter were just an estimate and that even on the Respondent's account at interview, the schedule sent to Mr H with the Respondent's letter of 6 September 2011 was not an authentic schedule showing prices actually paid for shares. Furthermore the Respondent's explanation was internally inconsistent with the 6 September 2011 letter which said unequivocally that the shares had been sold and reasonable prices obtained. Secondly the statement that the figures were just estimates did not sit fairly with the explanation given in relation to the letter of 2 September 2011 that there was some undisclosed impediment to the settlement cheques being cashed and paid into client account. Even if there was an impediment to paying in the cheques, the Respondent would still have known the amount of the sale proceeds and would have no need to give an estimate. It was also inconsistent with the letter of 17 August 2011 stating that some shares had been overlooked because the list of shares given in the Schedule 1 to the 6 September 2011 letter was comprehensive.

43.6 On 14 September 2011, by which stage the Respondent had received the cheque he requested from Mr H to allow distribution to take place, there was a credit balance on the client matter ledger of £289,546.45 which rose to £290,150.46 on 20 September 2011 when dividends were received in respect of the unsold shares. The Respondent was approximately £30,000 short of what he needed to make the distribution. Despite

this and despite the fact that he received no further funds in the intervening period, the Respondent paid all 17 pecuniary legacies on 27 September 2011; 16 of them amounting to £290,000 were paid from the ledger of Mrs SH deceased. The missing legacy due to CM in the sum of £30,000 was paid from the SSE&T ledger on which it was described as “payment re-invoice”. The requisition which the Respondent had completed for the payment was before the Tribunal. Once the shares had been sold, the Respondent made a repayment to the SSE&T ledger but he put back £32,575.44, that is to say, more than he had taken out.

43.7 On 1 November 2011, the Respondent wrote to Mr H with the Estate Accounts which purportedly showed the position at 20 October 2011 and the shares in the main portfolio as having been sold at a loss when they had not been sold at all and they were eventually sold for more than the probate value shown in those accounts. Mr Bullock submitted that this was material information to Mr H because he was both the executor and the residuary beneficiary of the estate. The Respondent was asked about that in interview and described the figures as an estimate calculated using the prices at that date. This was the same way he explained in interview the Schedule sent with the letter of 6 September 2011 and it was not an explanation that could stand the manner in which he explained away earlier letters. Later in interview, the Respondent said that he was taking a shortcut;

> “... during all this I thought payments were coming in it was going to happen and it didn’t so I took the short cut but you know I wasn’t intending to mislead it wasn’t there would have been no reason for me to do that I just sold the shares”

43.8 Mr Bullock submitted that nothing of significance then occurred until 13 April 2012 when the Respondent wrote to Mr H asking him to sign fresh copies of stock transfer forms, saying that the sales had gone through but that the brokers needed copies of the transfer forms for their own internal records. It was the Applicant’s case that this was not the position at all; the Respondent was trying to obtain the transfer forms that he needed to ensure that the shares were sold at that stage. The Tribunal would have to determine how credible this explanation was. The Respondent was asked about this in interview:

> “OB: ok the letter dated the 13 April 2012 let me take you to that and let me just read again for the purpose of the recording device what in part this letter says…”I have received notification from [Q & Co] who dealt with the sales that although the paperwork was processed correctly they have now mislaid those transfer forms”, you also state “although this does not affect the sales or the estate they’ve asked if I would obtain your signature on replacements so that their file is complete”
>
> RB: yep
>
> OB: so that was a letter from yourself to Mr [H], having reviewed the client file I found no correspondence from [Q & Co] on the client file where they state that they have mislaid stock transfer forms
>
> RB: no

OB: or request duplicates be signed and returned to them

RR: no um the reason being I'd contacted [Q & Co] where I use regularly for share sales because they were at the time very good and everything had gone sweetly in various other matters that we'd used to say telephone conversation and the forms were actually hand-delivered to my secretary in the office

OB: so the original stock shares forms you say you'd hand-delivered to

RR: they hand delivered the replacements I thought we'd send, I can't I thought we'd sent them in

OB: ok

RR: to [Q]

OB: so to be absolutely clear what you're saying to me is that you did fill out stock share forms in the first instance, you did submit them and you thought they'd been dealt with

RR: absolutely

OB: and that you did then get duplicates

RR: yep

OB: and it was those that you sent to Mr [H]

RR: yes, I think the first set were done when Mr [H] came down to the office

OB: right ok

RR: so he came down a couple of times but um I remember that because he always used to have a carrier bag but anyway

OB: ok so you're saying that Mr [H] signed these stock share forms twice

RR: twice

OB: and they were sent once and never dealt with and that were then sent

RR: reprocessed

OB: subsequently and that's where the payment of £32,000 came from

RR: yep"

43.9 Mr Bullock submitted that the significance of the above exchange was that it was known that the share sale took place on the basis of the second set of transfer forms after 13 April 2012, even if there had been a first set of forms.

43.10 After the second set of transfer forms were signed, the main portfolio was sold for £32,575.44 on 31 May 2012. Mr Bullock referred the Tribunal to a schedule produced by the brokers Q recording the detail of the sale and that on 19 June 2012 a cheque in settlement had been issued. It was credited to the Mrs SH deceased's ledger the following day 20 June 2012, described as "Chq [Q] Client Settlement A/C - Share Sale Proceeds". The next stage was that the Respondent realised that the settlement cheque had not gone into the SSE&T ledger where it needed to be, in order to rectify the shortfall but to the ledger of Mrs SH deceased where it should be and so he sent the e-mail on 22 June 2012 to the firm's accounts department. On 22 June 2012, a credit for that amount was recorded on the SSE&T ledger described as "TRSF [Q]-Share Proceeds from 38,000.1 to 1947.1 re RRO3". The problem was the opposite of what the Respondent said in the e-mail. He had not given the wrong reference; he had given the right reference for the right ledger and as a result had to deal with the shortage from his earlier admitted improper withdrawal. The Respondent was asked about this in interview:

"OB: Can you comment on the allegations that the e-mail dated 22 June was dishonest and designed to mislead your accounts department in order to replace funds earlier improperly paid from that ledger on the 27th September

RR: no I don't think it was dishonest I had given the wrong reference to the brokers but then I made the transfer anyway"

There was then a discussion about the probity of the payment of £30,000 to CM which the Respondent admitted was improper. There was then an exchange:

"OB: just going back in relation to that e-mail if I may that the e-mail dated 12 June I believe it was wasn't it

RR: 22nd

OB: sorry 22nd of June thank you, so and this is again just to be absolutely clear your recollection and your understanding of that e-mail is that, that e-mail is factually correct

RR: it wasn't a reference as I recall it wasn't in relation to the account number it was in relation to it was something else

OB: ok because from my understanding of what's happened 1947.1 is [SSE&T]

RR: yeah

OB: and we've already identified and you have agreed that there was a £30,000 payment from that ledger to [CM]

RR: yep

OB: that was improper and shouldn't have taken place

RR: yep

OB: and then monies have come in from the brokers who are [Q] and this e-mail here states "can the recent receipt of £32,575.44" which to be clear is from [Q], "be transferred to 1947.1" so that's been transferred from [H] to [SSE&T] so that would appear to be repayment of an earlier improper withdrawal

RR: I agree

OB: now are you saying that I mean I'm just I want to be very clear with you, that, there's no mistake there because you're saying that you've given the wrong account number, the £30,000 you've accepted was an improper withdrawal so that e-mail I'd just asked you to think about it again

RR: as I say I think I can understand what you're saying and the second half accept but the first off there was something about a wrong reference that I'd provided in terms of account number or something like that the payment in and I think it was rejected and I'd had a couple of phone calls from them saying we need to pay this in and then it paid in

OB: ok, ok

RR: so that's

OB: so still your contention that there was a wrong number there somewhere

RR: yeah"

43.11 Mr Bullock questioned what exactly could the problem have been other than the fact that the money had gone into the ledger for Mrs SH deceased rather than the SSE&T ledger. It was hard to see what Q & Co needed other than some means of identifying the correct ledger into which to make the transfer once the settlement cheque was received. The money including the overpayment was then left to rest in the SSE&T ledger. Mr Bullock agreed with a suggestion from the Tribunal but there must have been some form of identifier provided to Q & Co to allow the cheque to be credited as it had.

43.12 The Tribunal considered the Submissions for the Applicant, the evidence and the admissions of the Respondent and found allegations 1.3 and 1.4 proved to the required standard, indeed they were admitted.

44. **Allegation 1.5 - He [the Respondent] used a suspense account in circumstances where he could not justify its use in breach of Rule 32(1) SAR 1998 and Rule 29.25 SRA AR 2011.**

44.1 Mr Bullock submitted that the investigation also unearthed improper use of suspense accounts by the Respondent. It identified 20 occasions in the period 5 April 2001 to 27 June 2006 when the Respondent paid client money, varying enormously in amount, the largest being £160,000 and the smallest £4.10, into and out of a suspense account that he operated the "The Russell Rollings miscellaneous client account". The longest period which the investigation identified that funds were held in the account and then paid out or credited to the correct ledger was between 5 April 2001 and 8 August 2001, a period of four months. However sometimes, the re-credit was made the same day. On the debit side, two items were credited and not paid out and there was one occasion when an overpayment took place. The letter of 13 August 2013 to the Respondent in respect of the investigation into his conduct referred to the issue of the suspense client ledgers. This was the first time the issue was put to the Respondent; it had not been pursued by the IO in interview. In his e-mail of 27 August 2013, the Respondent stated:

> "Improper use of miscellaneous client account: every lawyer was issued with one of these and they were used as a matter of course by all. A simple investigation of such accounts by you, will vindicate me on this point. Eventually they were closed as it was accepted that they were no longer appropriate."

44.2 Mr Bullock submitted that the Applicant did not accept that what the Respondent said and relied on the evidence of Mr PM. It was not the position that every fee earner was issued with a miscellaneous client account as a matter of course. The true position was that such accounts were opened as a necessary incident of a financial file being opened if documents could not be filed on an open client matter. If an individual fee earner needed a file to hold documents not specific to an individual client file, if he wanted a general client file, the system was set up in such a way that an accounts ledger had to be set up behind the file. It could happen but it was a rare occurrence. Mr PM said that in the past 30 years the firm had employed 1,600 fee earners and of those only 153 had a miscellaneous client file and account opened in their name. Mr CB also confirmed that even where a miscellaneous client account ledger was opened in the first place this was extremely rare. His examination of the data indicated that of the 153 fee earners who had miscellaneous client files and consequently a miscellaneous client ledger opened, only 25 used them for client money transactions. Mr Bullock referred the Tribunal to a schedule dated 19 April 2013 (spanning the period 16 February 2010 to 14 February 2012). The heading included the name of the partner supervising and showed the most recent transaction year. Only nine such ledgers were still being operated when the Respondent first made use of his own ledger as a suspense account and the nine included those operated by the Respondent himself. Following on from that, based on the investigation by the IO when the ledgers referred to on the schedule were reviewed it appeared that the Respondent's ledger was the only one in respect of which a suspense account was being operated improperly. Mr Bullock accepted that there was not an absolute bar on the operation of the suspense account but there must be a justification for it. The Respondent had resiled from his initial position of disputing

the allegation about the suspense account and now admitted it. On the basis of his admission and the correspondence from the firm, Mr Bullock invited the Tribunal to find allegation 1.5 proved.

44.3 The Tribunal considered the submissions for the Applicant, the evidence and the admissions of the Respondent and found allegation 1.5 proved to the required standard indeed it had been admitted.

45. **Allegation 1.6 - In relation to allegations 1.1 - 1.4, it was further alleged that the Respondent was dishonest. However, dishonesty was not an essential ingredient of the allegations against him.**

45.1 Mr Bullock reminded the Tribunal of the two limbed test for dishonesty set out by Lord Hutton in the case of Twinsectra Ltd v Yardley [2002] UKHL 12:

> "... There is a standard which combines an objective test and a subjective test, and which requires that before there can be a finding of dishonesty it must be established that the defendant's conduct was dishonest by the ordinary standards of reasonable and honest people and that he himself realised that by those standards his conduct was dishonest. I will term this "the combined test".

45.2 Mr Bullock relied on his submissions in respect of allegation 1.1 to 1.4 and submitted that a finding of dishonesty had specific consequences for penalty. In terms of whether there had been dishonesty such as would satisfy the objective test in Twinsectra, Mr Bullock referred the Tribunal to the submissions in the Rule 5 Statement and submitted that the test was satisfied by the Respondent's conduct in:

- Making the payments on behalf of clients described in the Rule 5 Statement (such as the payment by the Estate of Mrs SH to CM) using funds belonging to another client (such as SSE&T).

- Procuring the making of a transfer on the client ledger on the Mrs SH matter and the client ledger on the SSE&T matter so as to reimburse the latter in respect of the payment to CM by making an untrue statement in the email sent on 22 June 2012 that he had given an erroneous reference to a stockbroker to the firm's accounts department. The purpose of the e-mail was to mislead the accounts department of the firm into making a transfer between the client ledger on the Mrs SH matter and the client ledger on the SSE&T matter so as to reimburse the latter in respect of the payment to CM. The net effect of the inter-client transfers was that the client ledger of SSE&T was credited with £2,575.44 which belonged to Mrs SH's estate. (In the Rule 5 Statement, it was set out that there was no evidence that the Respondent made untrue statements to the accounts department of the firm in order to mislead them into making transfers or payments otherwise than in relation to the matter of Mrs SH deceased.)

- Misleading Mr H repeatedly as to the progress of the administration of his late wife's estate.

45.3 Mr Bullock submitted that the Applicant stated that those acts would be regarded as dishonest by honest and reasonable people. If that was accepted, then regarding the subjective test Mr Bullock submitted that a number of matters showed that the Respondent knew perfectly well that he was acting in a manner which ordinary honest people would consider to be dishonest:

45.4 By making improper withdrawals; robbing Peter to pay Paul, the Respondent was engaged in a course of conduct that went on for a long time and it took place on more than an isolated number of client matters. This was not the case of a solicitor who in circumstances of pressure and stress committed a solitary act that others would view as objectively dishonest in what defence advocates frequently referred to as "a moment of madness"; rather the Respondent did it time and time again over 10 years on 21 occasions which indicated a degree of premeditation.

45.5 Mr Bullock suggested that the Tribunal should draw from the course of conduct that perhaps the Respondent had carried out such an activity once, and so that he knew that it worked. Premeditation could also be seen in the exemplified matter of Mrs SH deceased. If the Tribunal accepted that steps had not been taken to realise the main portfolio of shares until May 2012 then it must follow that everything that was sent at least down to 27 September 2011 and the Tribunal might think down to the letter of 1 November 2011 sending the final Estate Accounts to Mr H, was sent on the basis that ultimately the Respondent could find another source to make the payments he needed to make because the one thing he knew was that he did not have the necessary money. It was never suggested that the Respondent could get money other than as he did in the past by going to another client matter ledger. It was not a question of making an impulsive and stupid decision on 27 September 2011 (when he paid the pecuniary legacy to CM from SSE&T.) This had been coming since he sent the letter of 17 August 2011 to Mr H saying that the entirety of the liquid assets had been encashed.

45.6 Mr Bullock submitted that when the Respondent reached 27 September 2011, he was making a conscious decision to commit an act of impropriety. He had to raise payment requisitions in respect of 17 matters; he had to choose which he was going to pay from the correct client ledger and which he was not. Mr Bullock submitted that here the Tribunal reached a position where even if the Respondent's actions had been reckless hitherto and he had been gambling on funds coming in somewhere, he could now tell someone in the firm and the client that there was a problem and proceed in a proper manner or make an improper withdrawal; the Respondent chose to do the latter and afterwards he concealed his guilt. When the Respondent wrote to Mr H requesting the transfer forms, he was doing so on the basis of an unspecified problem and that the brokers needed signed copies of the transfer forms for unspecified reasons. He allowed Mr H to see Estate Accounts that on any possible view of matters he knew were misleading because he knew that they recorded that the shares had been sold at a loss when what he was doing was providing an estimate. When he e-mailed the accounts department, he said that there was a problem with a reference number and not that he needed to make a corrective transfer. If he really thought that there was nothing wrong and that it was acceptable honest conduct why not just say that he needed to make a corrective transfer. Mr Bullock suggested that the e-mail of 22 June 2012 was perhaps the best evidence of the Respondent's state of mind. Someone who thought what he had done was acceptable would not have sent that e-mail.

45.7 Mr Bullock reminded the Tribunal that the Respondent admitted impropriety in his letter of response to the Rule 5 Statement sent to the Tribunal on 19 February 2014. In respect of the suspense account he said:

> "Having worked at [the firm] all my working life I knew only its procedures. For instance the use of suspense accounts was perfectly normal and encouraged in my formative years. For the firm to state otherwise is simply untrue and I am happy for that to be placed on record. The culture of the firm was ingrained within me and the pressure applied to get the job done was uppermost in my mind."

Mr Bullock submitted that the Respondent had made further general references to the fundamental problem being the culture within the firm and pressure to get things done and to bill. He mentioned it in his e-mail response letter to the Applicant of 27 August 2013 and in interview with the IO. Mr Bullock suggested that that explanation was problematic as a defence to dishonesty and its factual premise that the firm placed undue pressure on employees and connived in corrupt practices was incorrect. Mr Bullock relied on the evidence of Mr PM regarding billing targets for someone of the Respondent's grade and about procedures for supervision and in any case it was an explanation that missed the point. If an individual did something which others thought was dishonest and he realised that they thought that it was dishonest then for the purposes of the Tribunal that person was to be treated as dishonest. What the Respondent was doing was putting forward mitigation for his dishonesty rather than saying that his acts were acceptable and those of an honest man. Mr Bullock's final point was that the Respondent could not do that because if he was right and if the firm condoned this kind of behaviour, he would have dealt with matters in a different manner over time. If he had thought that it was acceptable to have a shortage on the SSE&T account in order to pay out in respect of Mrs SH deceased's account then he would not have given some implausible explanation about having given the wrong number to the stockbroker, he would say that he had borrowed from the account and needed to make a corrective transfer.

45.8 Mr Bullock submitted that the Respondent did not explain what the pressure was upon him. It was not suggested the Respondent acted as he did to enrich himself but to expedite the process of the administration of the estate that he was dealing with and the pressure he described, if indeed he felt under pressure, (and the Applicant did not accept that pressure was applied) would provide him with a very real motive for deciding to act in a dishonest manner. Mr Bullock also reminded the Tribunal that it did not have to find either any intention to benefit personally or permanently to deprive in order to find dishonesty made out as set out in the case of Bultitude v Law Society [2004] EWCA Civ 1853.

Submissions of the Respondent in respect of dishonesty

45.9 The Respondent submitted that listening to the opening submissions from Mr Bullock had opened his eyes slightly and he felt in no position to dispute the facts any further; he never meant to be dishonest but the objective man would probably see that as such and he was here to put his hands up and accept punishment. When it was put to the Respondent that he should not take the decision immediately but consider his position further, he stated that this was not a snap admission. Mr Bullock supported this

concern and suggested that the Respondent consider his position over the lunchtime adjournment. The Respondent stated that he did not think that he had been dishonest but in the cold light of day he accepted that it would be viewed as that. The Tribunal explained that there were two aspects to the test for dishonesty set out in the case of Twinsectra; that the man in the street must regard the Respondent as dishonest and the Tribunal expressed the view that the second limb, subjective dishonesty might not be satisfied as the Respondent had indicated on the record that he did not think that he had been dishonest at the time. The Respondent was asked to consider his position and upon returning to court, the Respondent confirmed that he wished to admit the allegation of dishonesty. The Respondent stated that having considered the objective and subjective tests over the lunchtime adjournment in discussion with a family member who was present and with the benefit of the copy of the judgment in Twinsectra, looking back at it, given Mr Bullock's statements and the letters in particular which had been sent to Mr H, in retrospect he felt that he must have known that things were not as they should have been; he did not recall it like that but it must have happened and his aim now was to be honest and present things as he felt they were. He never felt he that he was being dishonest but there must have an element of that there which upset him. Mr Bullock expressed some concern as to whether the Tribunal had received a full admission of dishonesty bearing in mind the test.

45.10 The Tribunal considered that the Respondent had been given an oral explanation of the test and had the opportunity to read the test and consider his position and the Tribunal felt that it could reasonably accept the Respondent's admission and found allegation 1.6 proved to the required standard, indeed it had been admitted.

Previous Disciplinary Matters

46. None.

Mitigation

47. The Respondent submitted that this was a situation whereby the pressure of the job had obviously got to him; he had been working in a pretty much unsupervised role for the entire time he was at the firm and tried to do the best job that he could which he did for many clients over the 16 years he worked there. The situation got the better of him; it should not have done but it did, he should have taken the right recourse by approaching the partners and the management of the firm at the time; it was to his eternal regret that he had not done so. As Mr Bullock said on two occasions, the Respondent never had any intention to enrich himself personally; that had never crossed his mind. It was purely an action that happened on several occasions where he felt the need to conform to get matters dealt with rather more swiftly than he felt he had done and he took the wrong option. That was the thrust of the mitigating circumstances. In addition there were various elements referred to in the documents which would probably have little effect now; he was told that so long as his figures were fine; that was the only bench mark; appraisals were annual and he was told that he was doing an excellent job; nobody ever checked his work, everything was always signed off; all the bills were paid and there was never any cause for concern.

48. The Respondent had filed a Personal Financial Statement. He was living apart from his wife and children in rented accommodation and making regular payments for

them. He confirmed that his monthly balance was "negative". He was awaiting a decree absolute in his divorce proceedings and discussions about ancillary relief arrangements were about to start. His wife was able to work. There was equity in the former matrimonial home; he had had no advice about his financial position.

Sanction

49. The Tribunal had regard to its Guidance Note on Sanction, the mitigation made by the Respondent and references to relevant case law on sanction referred to by Mr Bullock in circumstances where dishonesty had been found proved and where there were accounts rules breaches. The most serious conduct that came before the Tribunal involved dishonesty and a finding that an allegation of dishonesty had been proved would almost invariably lead to striking off, save in exceptional circumstances as set out in the case of Sharma v Solicitors Regulation Authority [2012] EWHC 2472. The Tribunal did not consider that any exceptional circumstances had been established. The Respondent had destroyed his professional life as a result of what he described as pressures upon himself; he had not abided by the Accounts Rules in respect of client money adherence to which was of great importance and he had deliberately misled people. Accordingly the Respondent would be struck off the Roll of Solicitors.

Costs

50. For the Applicant, Mr Bullock applied for costs. The schedule had been filed on the basis of a hearing of two days and some adjustment needed to be made for that. He understood the Respondent's position to be that he should not pay costs as he believed that the firm was also culpable. Mr Bullock referred the Tribunal to the case of Baxendale-Walker v Law Society [2007] EWCA Civ 233 and what it said about costs in Tribunal proceedings. He submitted that the proceedings were properly brought. The Applicant had succeeded on all matters following belated admissions and therefore should have its costs. The Tribunal had seen the extensive report from the firm and queried the time spent upon the Applicant's investigation, 68.5 hours and time spent on preliminary and subsequent work etc together something like 140 hours, as the firm's report had effectively been adopted by the Applicant. Mr Bullock submitted that the report from the firm basically dealt with the accounts rules breaches but did not go into the issue of misleading the client on the matter of Mrs SH deceased which fed into the issue of dishonesty, a particularly serious aspect of this matter. It was clear that the IO had done some work and invested quite some time on the ledgers and putting correspondence together and the matter of Mrs SH also took up most of the time at interview. Approximately eight working days in total had been spent on site and in Mr Bullock's experience that was not a particularly long inspection bearing in mind the length of time spent in the interview six hours - one working day. The report from the firm had been very helpful in focusing the Applicant's investigation but those investigations were intelligence led with the job of the IO being to follow up the intelligence and his report was truncated because of the admissions that the Respondent made in interview on the topic of Mrs SH. Mr Bullock did not know how long the report would have been if the admissions had not been made and the IO would have needed to go back to primary document,. As a result the FI Report was short, focusing on the firm's letter. Relevant accounting documents had been reviewed.

51. The Respondent stated that he had only recently received the costs schedule on or about 23 August 2014; he would like the opportunity to consider its reasonableness but on being told that the decision would be made at the hearing, he chose to make no submissions. The Tribunal had regard to the submissions for the Applicant and by the Respondent and the fact that the hearing had taken considerably less time than originally estimated because of the late admission of dishonesty. The Tribunal considered that the amount claimed for the investigation was somewhat excessive having regard to the extent of the investigative work undertaken by the firm. The Tribunal assessed costs at £16,000 in total. The Tribunal had regard to the ability of the Respondent to pay costs having regard to the cases the cases of Merrick v Law Society [2007] EWHC 2997 (Admin) and D'Souza v Law Society [2009] EWHC 2193 (Admin) because it had made an order which would remove his right to work as a solicitor. However the Tribunal noted that the Respondent had embarked on a new career although his future employment was unpredictable and also noted that although his monthly finances were in deficit there was equity in the former matrimonial home and determined that an immediately enforceable order would be made.

Statement of Full Order

52. The Tribunal Ordered that the Respondent Russell James Rollings, solicitor be Struck Off the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this enquiry fixed in the sum of £16,000.00.

Dated this 9th day of October 2014
On behalf of the Tribunal

A.G. Gibson
Chairman