SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 11270-2014

BETWEEN:

SOLICITORS REGULATION AUTHORITY Applicant

and

PASCALE EDITH MARIE-ANNE WOOD-ATKINS Respondent

Before:

Mr E. Nally (in the chair)
Mrs J. Martineau
Mr P. Wyatt

Date of Hearing: 30 June -2 July 2015

Appearances

Mr Andrew Tabachnik, counsel, of 39 Essex Chambers, 39 Essex Street, London, WC2R 3AT instructed by Mr James Dunn, solicitor, of Devonshires Solicitors, 30 Finsbury Circus, London EC2M 7DT for the Applicant.

Mr Gregory Treverton-Jones QC, counsel, of 39 Essex Chambers, 39 Essex Street, London, WC2R 3AT for the Respondent, who was present.

JUDGMENT

Allegations

1. The allegations against the Respondent, Pascale Edith Marie-Anne Wood-Atkins, made in a Rule 5 Statement dated 11 August 2014 were that she:

1.1 Failed to act with integrity, in breach of Principle 2 of the SRA Principles 2011 ("the Principles") and that the actions relied upon by the Applicant were dishonest. The Applicant relied on the following matters in support of the allegation:

1.1.1 At the request of her client, Provartis AG, and its agents, the Respondent provided a letter confirming the terms of a leveraged account without seeing the underlying evidential document, despite later claiming that she had seen them (the evidential documents);

1.1.2 The Respondent made false representations to customers of Provartis AG that, if they paid their money to the Firm, that money would be sent to Deutsche Bank/Commerzbank;

1.1.3 In breach of those representations to customers of Provartis AG, and without contacting those customers, the Respondent made payments of their money to third parties and to the Firm's Office Account, paying off substantial arrears and debts which were owed by the Firm;

1.1.4 The Respondent made false statements to customers of Provartis AG that the monies were still in her client account, when they had previously been paid out to third parties and her Office Account; and

1.1.5 Despite her knowledge of the Applicant's warning notice on fraudulent financial arrangements, the Respondent proceeded to act in transactions which displayed every single:

1.1.5.1 warning sign; and

1.1.5.2 justification for instructing a solicitor

which featured in that warning notice.

1.2 Allowed her independence to be compromised, in breach of Principle 3 of the Principles, by making false representations to customers/third parties at the request of her client.

1.3 Failed to behave in a way that maintained the trust the public placed in her and in the provision of legal services, in breach of Principle 6, by making false representations to members of the public and using their money without their authority, and contrary to those representations.

1.4 Failed promptly to return client money to the persons on whose behalf the money was held, as soon as there was no longer any reason to retain those funds, in breach of Rule 14.3 of the SRA Accounts Rules 2011 ("AR 2011") following termination of her retainer with Provartis AG.

1.5 Provided banking facilities through her client accounts, in breach of Rule 14.5 of the AR 2011. Each and all transactions through the Firm's Client Account (as set out in the Rule 5 Statement) save for payments to the Firm's Office Account, involved the provision of banking facilities.

1.6 Withdrawn

1.7 Failed to carry out bank reconciliations, in breach of Rule 29.12 of the AR 2011.

1.8 Failed to notify the SRA promptly of the Firm's serious financial difficulty, in breach of Outcome 10.3 of the SRA Code of Conduct 2011 ("the Code").

1.9 Took unfair advantage of third parties, namely the customers of Provartis AG, in breach of Outcome 11.1 of the Code by making false representations to members of the public and using their money without their authority, and contrary to those representations.

1.10 Allegations 1.1, 1.2, 1.3 and 1.9 were made on the basis that the Respondent acted dishonestly, but it would be open to the Tribunal to find the allegations proven without finding dishonesty.

Documents

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

Applicant:-

- Application dated 11 August 2014
- Rule 5 Statement, with exhibit "JHRD 1", dated 1 August 2014
- Trial bundle, including the above and, in volumes 2 and 3:
    - Correspondence between the Applicant and Respondent
    - Respondent's response to the Forensic Investigation Report dated 18 March 2014 with appendices
    - Respondent's Defence (undated)
    - Respondent's witness statement (undated), with exhibit "PWA 1"
    - Respondent's statement of means dated 1 April 2015
    - Firms' Client Account bank statements 1 October 2012 to 5 September 2013 (sterling, US dollar, and Euro)
    - Respondent's character evidence (detailed below)
- Trial bundle – authorities bundle, including best copies and agreed transcript of part of exhibit "PWA 1"
- Trial bundle – correspondence and orders
- Core bundle – not used

- Documents inserted into bundle during the hearing:

    - Sheet of Firm's office account transactions January to December 2012, with totals;
    - Copy Firm's professional indemnity insurance proposal 2012
    - Handwritten sheet of monies received and paid out re Land Energy.

- Applicant's Opening Note dated 29 June 2015

- Statement of costs dated 12 June 2015

Respondent:-

- Defence - undated
- Witness statement with exhibit "PWA 1" – undated
- Bundle of 20 character references
- Skeleton argument on behalf of the Respondent dated 26 June 2015

Preliminary Matter (1) – Withdrawal of allegation

3. The Applicant sought permission to withdraw allegation 1.6, which related to sending bills or notification of costs to a client. The Respondent had provided information which demonstrated that the withdrawals in question related to disbursements, not fees. The Respondent agreed with the Applicant's application to withdraw the allegation.

4. The Tribunal reviewed the position in the light of the submissions of the parties. This allegation was minor compared to others, and it could not be proved to the required standard. The Tribunal gave permission to withdraw the allegation.

Preliminary Matter (2) – Terminology and dramatis personae

5. This case involved a number of individuals and entities who did not appear before the Tribunal and were not parties to the proceedings. The Tribunal wished to make it clear that it could not make findings against any of those individuals or entities. However, it was necessary to record in this Judgment the matters raised by the parties and the extent to which those matters were accepted by the Tribunal for the purposes of this Judgment. For example, if it is stated that "person x committed fraud", this should be taken as the Tribunal's understanding of the position as put forward by the parties and not as a finding against an individual who had not had the opportunity to rebut the misconduct attributed to that individual.

6. The matters in the case arose from instructions given to the Respondent, purportedly by or on behalf of Provartis AG, a company registered in Switzerland. The company shall be referred to in this Judgment as "PAG". The individuals who gave instructions on behalf of PAG were Mr Paul Ubsdell ("PU") and Mr Mark Britain ("MB"). Instructions were also given by Mr Andy Fleming ("AF"), who at the relevant time was associated with a friend/acquaintance of the Respondent, Judy Welch ("JW").

JW operated a Gibraltar based consultancy company, Black Energy International ("Black Energy"), with AF.

7. The monies received into the Firm's client account in relation to PAG were from: Land Energy Investments Limited ("LE"); Kentucky Natural Organics LLC ("KNO") and Mr Michael Ben Timmins ("Mr Timmins"); Freedom Films ("FF"), otherwise known as Thunder Run ("TR") and Mr Brian Presley ("Mr Presley"); and Mr Gwyn Lewis ("Mr Lewis"). Those individuals or entities shall be referred to as the PAG Investors. The PAG Investors understood that money would be transferred on their behalf to Deutsche Bank ("DB") or Commerzbank.

8. Any other abbreviations or terminology will be addressed in the body of the Judgment.

Factual Background

9. The Respondent was born in 1963 and was admitted as a solicitor in 1988. The Respondent's name remained on the Roll at the date of the hearing.

10. At all material times, the Respondent was the recognised sole practitioner of Wood-Atkins Commercial Law ("the Firm") which operated from premises at The Old Post Office, 17 High Street, Whitchurch, Aylesbury, Buckinghamshire HP22 4JU. The Firm ceased to trade on 29 December 2013.

11. The Applicant commenced an investigation of the Firm's books of account and accounting systems on 14 August 2013. As a result of the inspection, the Forensic Investigation Officer ("FI Officer"), Mr Adam Howells ("Mr Howells") produced a Forensic Investigation Report ("FIR") dated 13 November 2013, on which the Applicant relied.

12. The matters covered in the FIR were raised with the Respondent under cover of a letter of 10 February 2014, to which the Respondent replied on 18 March 2014.

Background – "Phase 1"/"Phase 2"

Executive summary, from FIR

13. The Firm acted for MB and PU, representing PAG, from around 24 September 2012 to 15 March 2013. The Firm also took instructions from AF in relation to PAG.

14. From October 2012 to December 2012 ("Phase 1"), the Firm received funds into its client account from third party customers of PAG (the PAG Investors, as noted above) in relation to an investment programme which was said to involve the trading of funds to be held in an account with DB and/or Commerzbank.

15. The Applicant's position was that the Respondent made representations to the PAG Investors that their funds could be paid to the Firm, where they would be protected in the Firm's client account and then transferred (in their entirety, on the Applicant's case) to DB or Commerzbank. In a number of cases, the representations included reference to the Respondent's status as a regulated solicitor. Following receipt of the

funds from the PAG Investors, the Firm made various payments to third parties from those funds, on the instructions of PAG or its agents, and also used those funds to pay the Firm's fees and disbursements.

16. In around November 2012, the Respondent became aware that the proposed investment scheme was not possible and became involved in attempting to facilitate a similar programme in Hong Kong, through Provartis Capital Limited ("Provartis Capital"). The Respondent was the sole owner and director of Provartis Capital but it was envisaged that she would hold the company as nominee for PU, MB and AF. Further monies were received by the Firm from the PAG Investors and other third parties. In this, Phase 2, all of those monies were paid to a bank account in Hong Kong to be held there until the investment had been arranged by a Hong Kong solicitor, Mr Chang. Some of the monies received during Phase 1 were also sent to this account.

17. The Respondent terminated her retainer with PU and MB by letter and email dated 15 March 2013. By this time it was understood that there was $10.1 million held by Mr Chang on trust for Provartis Capital. As at 17 March 2013 the Respondent was still trying to secure a trading opportunity in Hong Kong. The Applicant was not able to confirm the figures, but understood that the PAG Investors and the other third party investors had not recovered substantial amounts of their original payments. The Applicant alleged that both Phases involved features listed on the "Fraudulent Financial Arrangements" warning card.

18. The Firm charged a total of £202,664.44 in fees (excluding disbursements) to the PAG ledger accounts between 9 October 2012 and 13 August 2013. The Applicant asserted that these fees comprised the majority of the firm's income received into office account during that period and that the first payment received from a PAG Investor paid off arrears and debts of the Firm.

19. Matters relating to Phase 2 were dealt with on the documents in the case, but little evidence was heard on this during the hearing, so little detail about that will be set out in this Judgment.

Warning Card on Fraudulent Financial Arrangements – April 2009

20. The SRA's warning card on Fraudulent Financial Arrangements was last updated in April 2009 and was current at all material times. That warning card read:

> "**The Solicitors Regulation Authority takes strong action against those it regulates who appear to facilitate fraud.**
>
> Your obligations are set out in Rule 1 of the Solicitors' Code of Conduct 2007.
> **Avoid dubious financial arrangements**
>
> You must ensure that you do not become involved in dubious financial arrangements or investment schemes. Failure to observe our warnings could lead to disciplinary action, criminal prosecution or both.

Schemes are formulated by fraudsters to prey upon the wealthy, greedy or vulnerable. They often sound "too good to be true" and almost always are.

Warning signs

- The promise of unrealistically high returns
- Deals forming part of larger deals involving millions, or billions of pounds, dollars or other currencies
- Any advance fee payable to secure future lending or buy into an "investment" process
- Trading in apparent banking instruments such as Promissory Notes or Standby Letters of Credit to provide returns for non-banking investors
- Confusing and complex transactions involving misleading descriptions or ill-defined terminology, such as "grand mast collateral commitment"
- Vague reference to humanitarian or charitable aims
- The need for secrecy to protect the scheme, particularly to prevent proper checks
- Use of faxed or easily forged documents often from offshore companies or from financial institutions abroad

Why involve you?

The fraudster wants to be associated with the legitimacy and respectability which, as a person or firm regulated by the SRA, you provide by:

- Endorsing the arrangements by acting as the fraudster's legal adviser or banker
- Providing correspondence to the fraudster's company or third parties
- "securing" the transaction with an undertaking from you
- Opening bank accounts, awaiting receipt of funds or using your client account
- Referring to your insurance or to the Compensation Fund.

If you do not understand the documents or a transaction in which you are involved, you must ask questions to satisfy yourself that it is proper for you to act. Why have you been approached? Do you have any expertise in this area of law? If you are not wholly satisfied as the propriety of the transaction, you must refuse to act."

The Firm

21. The Firm was established by the Respondent in 2001 as what was described by the Respondent as a niche commercial firm, which carried out work which was more complex than its size might suggest. The Respondent was a sole practitioner, but employed solicitors and support staff. The Respondent had trained with larger firms, including City firms, and had worked in-house for Guiness/Diageo for approximately 13 years of her career.

"Leveraged accounts"

22. The PAG proposed investment programmes involved the trading of funds in "leveraged accounts" by companies including PAG. The Respondent understood, from the information given to her by those involved with PAG, that in receiving £1 million and paying, for instance, £100,000 to a leveraged account, where that account was described as being on a 10:1 basis, the investor would be credited with £1 million. That sum of £1 million could then be used for trading. The Respondent's position was that she understood that because of the proposed leveraged account on a 10:1 basis, the remaining £900,000 of the client's money could be used for other purposes, including payment of the Firm's fees and disbursements. It was accepted by the Respondent that the PAG Investors were unaware that PAG proposed to use leveraged accounts.

Material clients

23. JW, who was understood to be a former tax partner at Deloitte and who originally became an acquaintance of the Respondent socially through a local book group, operated Black Energy, a consultancy company, which worked with AF. AF was introduced to the Respondent in or about May 2011. The Firm acted for AF and his company AFAP in relation to various matters from spring 2011; those matters were not in issue in these proceedings. AF and his company paid the Respondent's bills promptly until approximately May 2012.

24. AF introduced MB and PU of PAG to the Respondent and the Firm became acting for them on or around 24 September 2012 until the retainer was terminated on 15 March 2013. AF informed the Respondent that he was engaged in an informal joint venture with PU/MB and/or PAG; those parties agreed that there was no conflict of interest between them.

PAG

25. The information about PAG which was provided to the Respondent at or about the time she accepted instructions from PU, MB and/or AF on behalf of PAG included:

25.1 A client information sheet provided by PAG which:

25.1.1 Gave an address in Switzerland, with contact telephone numbers, emails etc.;

25.1.2 Indicated that PU was the main signatory, and gave passport details and an address in the UK for him;

25.1.3 Indicated that Withers LLP were PAG's legal advisors;

25.1.4 Gave details of PAG's accountants;

25.1.5 Stated that PAG's bankers were DB;

25.1.6 Gave information about an account with RBS in Guernsey (for which the email address was given as an email naming Black Energy);

25.1.7 Gave information about a settlement banking account with JP Morgan;

25.1.8 A statement in relation to "fund's information" which stated, "Funds available for 1st tranche" €500,000,000 (sic);

25.1.9 Stated that the origin of the funds were "business activities within insurance and telecoms";

25.1.10 Stated that the funds were "clean and clear"

25.1.11 Corporate activities were stated to be "Development and construction of projects on a charitable/job creation theme"

25.2 A copy of MB's passport, certified by Matthew Roddan of Eastleys Solicitors;

25.3 A copy of PU's passport, certified by Matthew Roddan of Eastleys Solicitors;

25.4 Documents on paper from "Banc Pac", which was stated to be a Private Bank Group, being:

25.4.1 Document dated 29 June 2012 which referred to PU/PAG, described PU as "Principal and Custodial Trustee" and stated under "Monthly business statement of account" as at 10.22pm CST on 1 July 2012 that the balance was $6,020,833,333,32;

25.4.2 A document dated 2 July 2012 which stated that the "line of credit drawing balance" at 9.08am CST that day was $6,398,611,111.11 and referred to a ledger asset balance of $106,398,611,111.11.

25.5 A "creditsafe" company search on PAG which stated PAG's main activity was "Other activities auxiliary to financial services, except insurance and pension funding", that the credit limit was 5,000 CHF, that the nominal share capital was 100,000 CHF and that the managing director and single member of the board of directors was a Mr Atansios Akratos ("Mr AA");

25.6 A letter on PAG headed paper, dated 23 August 2012, apparently signed by Mr AA, which stated, "Certification. This letter is to certify that Mr Mark Britain and Mr Paul Ubsdell are shareholders of Provartis AG, Zurich. Mr Britain and Mr Ubsdell are representing [PAG] for business matters." A copy of Mr AA's identity card was also available;

25.7 "Creditsafe" report on UK directorships held by MB and/or PU, printed on 25 September 2012, which showed:

25.7.1 MB was a director of Blue Octagon Telecommunications Ltd from 20 May 2007 to that date (25 September 2012); there was a County Court Judgment ("CCJ") against the company for £923;

25.7.2 MB was a director of three other companies, which had been dissolved, one of which showed a CCJ for £3,540;

25.7.3 MB had previously been a director of 7 other companies, 5 of which had been dissolved;

25.7.4 PU was listed as a director of 8 companies, all of which were dissolved and was a previous director of three companies, two of which were not trading and one of which was in liquidation

26. On 25 September 2012 the Respondent wrote to PU, stating:

> "Re: Paymaster Services
>
> I am writing to notify you that Wood-Atkins Commercial Limited has now completed its due diligence and AML checks and is now ready willing and able to proceed with its obligation to provide paymaster services to you as (and) when you require".

Letters provided to or for PAG and their investors

27. On 24 September 2012, AF sent an email to the Respondent from an email address at his company Blue Energy, with the subject line "Letter Required". The email read:

> "Pascale,
>
> I need the following letters on your headed paper.
>
> 1st letter: Welcoming [PAG] as a client.
>
> 2nd letter: Confirmation to [PAG's] client that you will hold in an escrow account there (sic) funds, then transfer into there (sic) own client account which has been set up by [PAG] in DB, Malta. The funds that will be transferred will be on a 100% match basis on funds received.
>
> 3rd letter: Confirmation to PAG on there (sic) DB account leverage (10:1 Ratio)
>
> 4th letter: Paymaster services will be charged at a rate of 1.5% of funds received as a deduction of principal amount. All payments will be under the instructions of [PAG].
>
> Kind regards,
> Andy"

28. Several hours later, in the early hours of 25 September 2012, the Respondent sent an email to AF at an email address of his company Green Paper ("GP"), which read:

"Dear Andy,

As requested I am sending through the following documents:

1. Rule 2 letter
2. Terms and conditions of the Firm when acting as Paymaster;
3. Confirmation of [DB] account
4. Confirmation of details for clients of Provartis

4.(sic) Bank details for our client accounts.

I should also be most grateful if [PU] would kindly send through signed versions of the CIS and Board Minute if he has the opportunity as both copies that I have seen are unsigned.

If you require me to send through any further information, please let me know."

29. The first of these items, described as a Rule 2 letter, was in effect a client care letter. It was dated 24 September 2012 and was addressed to PAG and began, "Dear Mr Bryan" and "Re: Paymaster Services". This letter included the following:

29.1 "Paymaster services will be charged at a rate of 1.5% of funds received as a deduction of principal amount. All payments will be under your written instructions at all times."

29.2 In a section noting requirements of the SRA, it was stated, "Firstly, please note that our liability per claim or series of claims is limited to £2 million".

29.3 A section on anti-money laundering checks and the need for searches at Companies House and physical photographic identification.

30. There was also a "Terms of Business (Paymaster Services)" document, which was understood to be the second document referred to in the Respondent's email.

31. The third letter in the Respondent's list was also dated 24 September 2012 and was addressed to PU at PAG. It read:

"Dear Mr Ubsdell

Re: Deutsche Bank

Further to your instructions for us to act on your behalf as paymaster, we write to confirm that the terms of the Deutsche Bank leverage account will be 10:1.

If you require any further confirmation on any other point then please do not hesitate to contact us.

Best regards.
Yours sincerely,
Pascale Wood-Atkins"

32. The fourth of the letters referred to by the Respondent in her email of 25 September 2012 was addressed to PU at PAG and was dated 25 September 2012. It read:

> "Dear Sir.
>
> Re: Client Confirmation
>
> We write to enable you to confirm on our behalf to your Client(s) that any moneys held within this firm shall be safely held in our Client's escrow account, which are accounted for separately so as to ensure that any Client funds remain intact for the length of the period that they may be held there. Money will then be transferred by us to your Client's own account which has been set up in [DB] Malta on their behalf by you, [PAG], full details of (which) you will provide in writing. Funds will be transferred on a 100% match basis on any funds received.
>
> If we can be of any further assistance, then please do not hesitate to contact us."

This letter will be referred to as "the first client confirmation letter". In addition, the Respondent provided details of her Firm's bank accounts.

33. Later on 25 September 2012, the Respondent sent an email to PU which read:

> "Dear Paul,
>
> I am very pleased to say that although I may still be waiting for the signed versions of the documents from this morning's email, I have now seen enough other documents to satisfy the KYC process which has now successfully completed, and I enclose the RWA letter as confirmation.
>
> I also am sending through a letter that can be sent to your clients with my bank details and also my contact details if anyone would like to check that I exist and am really carrying out the paymaster services.
>
> I am also sending through one other letter re client file management.
>
> Please contact me if you require any further information."

It was understood that "KYC" meant "know your client" and "RWA" meant "ready, willing and able".

34. The letters attached to this email were:

34.1 Confirmation that the Firm had completed its due diligence and Anti-money laundering ("AML") checks, which letter read:

> "Dear Mr Ubsdell,
>
> Re: Paymaster Services

I am writing to notify you that [the Firm] has now completed its due diligence and AML checks and is now ready willing and able to proceed with its obligation to provide paymaster services to you as (and) when you require."

34.2 A letter addressed to Mr Ubsdell in Zurich which read:

"Dear Mr Ubsdell,

Re: Client Confirmation

Thank you very much for your instructions and I confirm that we are delighted to be able to act as paymaster on your behalf.

The funds that we receive on behalf of your Clients will be safely held in our Client's Escrow accounts, which are accounted for separately from our own moneys and other Client funds so as to ensure that any Client funds remain intact for the length of the period that they may be held there. We have three Escrow accounts, Sterling, Dollar and Euro, which are all governed by the rules of the Solicitors' Regulation Authority.

The funds will then be transferred by us to your Client's own account which has been set up by you in [DB] Malta, full details of (which) you will have provided to your Clients in writing in the Asset Management Agreement. Funds will be transferred on a 100% match basis on any funds received.

If any of your Clients' or their lawyers or bankers would like to contact me personally to verify my identity or to clarify any point in this letter then please ask them to do so on the details below. If they do want to speak to me then I shall be happy to make myself available at their convenience for the next 48 hours, but after that time I would ask that they leave a message and I will return their call in GMT waking hours.

Finally, I am enclosing the details of my Escrow Accounts. If anything is unclear then I shall be happy to verify any details".

The letter, signed by the Respondent, gave her office and mobile telephone numbers and her work email address. This letter will be referred to as "the second client confirmation letter".

34.3 A further letter addressed to Mr Ubsdell in Zurich, which read:

"Dear Mr Ubsdell

Re: Client File

Further to our letter that we are happy for you to send out to your Clients, it would really help our management of the process if you would kindly send a list of the clients that may possibly be contacting us so we can check the names and companies against your records.

> Also, as and when funds are transferred, may we also request that you send through a copy of the AMA and CIF for each client which we will then keep with each file for audit purposes.
>
> Thank you very much for your co-operation and we really look forward to be able to help you on this matter."

Land Energy Investments Ltd ("LE") – Dr KS Hundal

35. On 8 October 2012 at 13.22, Dr Hundal, purportedly representing LE, emailed the Respondent to say:

> "Dear Pascale,
>
> Further to our conference call this morning, please note that we are happy to transfer funds to the Wood Atkins US dollar account, which is to be utilised solely for the fulfilment of the contract between [LE] and [PAG].
>
> I have asked [PAG] to supply the countersigned contract if not already done.
>
> Please can you confirm that the funds will remain in your Escrow until the account in Commerzbank or [DB] is open in the name of [LE], and that the funds will only be transferred to that said account, which will be a sole signatory account in our control, in accordance with the contract with [PAG].
>
> If the appropriate account and trade is not open and functioning in trade within 21 days from today, you will return the funds in full to the Credit Suisse account in the name of [LE].
>
> Upon receipt of your confirmation, I will transfer the funds.
>
> Many thanks
> KS Hundal"

36. Later the same day, the Respondent replied to Dr Hundal, stating:

> "Dear Mr Hundal,
>
> Thank you for your email and it was very nice to speak to you today.
>
> I confirm that although [PAG] is my Client I have taken careful note of your instructions as set out below and will make sure that the funds are handled in accordance with these instructions.
>
> I have double-checked with [PAG] as to the stop date of 21 days and they have requested that they would prefer that to be 21 Banking days, which is a little longer, just because of the jurisdictional differences between the accounts. Of course, in reality this should be taking place in a much quicker time frame.

> I for my part have noted in the file that if funds have not been transferred after a set period, the funds are to be returned to you. I will note 21 days and 21 banking days until you confirm with [PAG] which is the correct figure.
>
> I do hope this has given you the necessary comfort but if you have any further queries please let me know. If not I will look out for the receipt of funds into our account and will as a courtesy confirm to you and [PAG] when they are safely received.
>
> Best regards,
> Pascale Wood-Atkins".

37. On 9 October 2012, LE paid $1,959,988.54 into the Firm's client account.

38. A spreadsheet sent to PAG on 15 October 2012 indicated that the funds arrived on 9 October 2012, that the Firm had taken costs of $29,399.82 and paid out $871,804 to or for PAG by 15 October, such that the balance of LE's funds at that date was £1,058,784.72.

Kentucky Natural Organics LLC ("KNO") – Michael Ben Timmins ("Mr Timmins")

39. On 8 October 2012, the Respondent received an email from Pasquale Montesanti ("Ms Montesanti"), purportedly on behalf of KNO/Mr Timmins, which read:

> "Good morning, Ms Wood-Atkins.
>
> I received this message from my client that will be sending their wire tomorrow:
>
> > "Hi, Pat. Can you provide Pascale Wood-Atkins' SRA ID number. The SRA organization has a very nice web site. You can review a member's records by providing their SRA ID number. A first review did not reveal any actions in the last 3 years"
>
> Can you please provide the requested information at your earliest?
>
> In addition, can you please send the formatted letter that you sent Paul (attached) with the word "Client" replaced with "[Mr Timmins/KNO]?"
> Thanks in advance for your assistance."

40. The Respondent replied to Ms Montesanti, providing her Firm's and her personal SRA reference numbers. She also sent an amended letter, dated 8 October 2012, which will be referred to as "the third client confirmation letter", which read:

> "Dear Mr Ubsdell,
>
> Re: [Mr Timmins/KNO] ("Client") Confirmation
>
> Thank you very much for your instructions and I confirm that we are delighted to be able to act as paymaster on your behalf.

> The funds that we receive on behalf of your Client will be safely held in our Client Account(s), which are accounted for separately from our own moneys and other Client funds so as to ensure that any Client funds remain intact for the length of the period that they may be held there. We have three Escrow accounts, Sterling, Dollar and Euro, which are all governed by the rules of the Solicitors Regulation Authority.
>
> The funds will then be transferred by us to your Client's own account which has been set up by you in [DB] Malta, full details of (which) you will have provided to your Client in writing in the Asset Management Agreement. You will then return 100% of the face value of those funds back to our Client Account within 60 days for us to then disburse back to the Client in accordance with your written instructions.
>
> If your Client or their lawyers or bankers would like to contact me personally to verify my identity or to clarify any point in this letter then please ask them to do so on the details below. If they do want to speak to me then I shall be happy to make myself available at their convenience in the next 48 hours but after that time I would ask that they leave a message and I will return their call in GMT waking hours.
>
> Finally, I am enclosing the details of my Client Accounts. If anything is unclear, then I shall be happy to verify any details.
>
> Yours sincerely,
> Pascale Wood-Atkins".

41. On 15 October 2012, KNO paid $40,008.01 and $160,008.01 to the Firm.

42. On the same date, the Respondent sent an email to PU stating:

> "Dear Paul,
>
> I hope you are well.
>
> Apologies for not replying earlier to your email. Clients spreadsheet attached which confirms receipt of $200,016.02 from [KNO] in two payments ($160,008.01 and $40,008.01).
>
> I have also reflected [the Firm's] fees although this will need an invoice which will follow this afternoon.
>
> Best regards,
> Pascale Wood-Atkins".

43. The spreadsheet (also mentioned at paragraph 38) indicated that funds of $200,016.02 were received on 15 October 2012 and fees of $3,000.24 were taken, leaving a balance of $197,015.78.

44. Later that day, the Respondent sent an email to MB and PU with the subject line "[KNO] – Confirmation of receipt of Funds", which read:

> "Hi,
>
> Please find attached the [Firm's] invoice and confirmation of receipt of money into account.
>
> I should add that we are still missing some of the CIF paperwork.
>
> 1. Mr Timmons said he had no passport but quotes a passport number;
>
> 2. The description of where the money is sourced is skimpy and not helped by the fact that the money has not come from their recognised account.
>
> 3. There is no signed paperwork be that AMA or whatever.
>
> Would you mind having a word about this as I would like my files to be complete if possible as they will be subject to an audit at some time as part of our annual SRA requirements".

The invoice referred to was not attached to this email but the costs were transferred on 15 October 2012.

Freedom Films ("FF") - Thunder Run ("TR") and Brian Presley ("Mr Presley")

45. On 16 October 2012, the Respondent sent an email to PU which indicated that she had been in discussion with Mr Presley. The email read:

> "Hi, Paul.
>
> I have spoken to [Mr Presley].
>
> He is very keen to have something in writing from me so are you ok for me to send a copy of this letter to Mr Presley, together with a shorter version of the MacNeial email.
>
> If he has any further questions he will then come back this evening.
> Best regards."

46. The attached letter, addressed to PU at PAG, and dated 16 October 2012 ("the fourth client confirmation letter"), read:

> "Re: [FF ("[TR]") ("Client") Confirmation
>
> Thank you very much for your instructions and I confirm that we are delighted to be able to act as paymaster on your behalf.
>
> The funds that we receive on behalf of your Client will be safely held in our Client Account(s), which are accounted for separately from our own moneys

and other Client funds so as to ensure that any Client funds remain intact for the length of the period that they may be held there. We have three Escrow accounts, Sterling, Dollar and Euro, which are all governed by the rules of the rules of the Solicitors Regulation Authority.

The funds will be transferred by us to your Client's own account which has been set up by you in [DB] Malta, full details of (which) you will have provided to your Client in writing in the Asset Management Agreement.

If your Client or their lawyers or bankers would like to contact me personally to verify my identity or to clarify any point in this letter then please ask them to do so on the details below. If they do want to speak to me then I shall be happy to make myself available at their convenience for the next 48 hours but after that time I would ask that they leave a message and I will return their call in GMT waking hours.

Finally, I am enclosing the detail of my Client Accounts. If anything is unclear then I shall be happy to verify any details.

Yours sincerely,
Pascale Wood-Atkins".

47. In an email dated 16 October 2012, the Respondent wrote to Mr Presley. The email was copied to PU. It had the subject line "[PAG] and [FF]" and read:

"Dear Mr Presley,

It was very nice to speak to you earlier today.

I am sending through a copy of the letter between [PAG] and our Firm, confirming that your file is to be dealt with by this Firm.

I confirm that I have been appointed by [PAG] to act as the conduit for the funds to transfer from US to the designated bank account in Malta that will be set up in your name.

I should also like to reassure you that any funds sent to this Firm are fully protected. In England, solicitors are governed by the Solicitors Regulation Authority and the SRA have laid down very strict rules on what can or cannot happen to money when it is in our Client account. Client funds must always be kept separate from our office funds. The funds remain the Client's money at all times and I can only transfer funds as part of a transaction and in accordance with Client instructions. Failure to follow such rules would breach the SRA rules which apart from bringing criminal sanctions would also lead to me being unable to practise ever again. As a solicitor we take this set of rules very seriously and certainly from my viewpoint the idea of breaking those rules would be absolutely unthinkable.

> Whilst PAG is my Client, I am fully aware that this money is only being received from their own clients (i.e. you) in accordance with the agreement that you have signed with them. I have undertaken not to distribute funds other than in accordance with the terms of that Agreement which will ensure that your money is only transferred to the designated bank account set up in the name of your company.
>
> If you have any further questions I am more than happy to speak to you again this evening.
>
> Best regards,
> Pascale Wood-Atkins"

48. That email attached the letter set out at paragraph 46 above. The fourth client confirmation letter did not contain the statement, "You will then return 100% of the face value of those funds back to our Client Account within 60 days for us to then disburse back to the Client in accordance with your written instructions" which appeared in the third client confirmation letter, set out at paragraph 40 above, but certain assurances appeared to be given in the covering email.

49. On 17 October 2012 the Firm received $1,999,958.47 from TR.

Gwynfor David Leslie Lewis ("Mr Lewis")

50. On 31 October 2012, Mr Lewis sent a letter to the Respondent with which was enclosed a cheque for £100,000. The letter read:

> "Dear Pascale,
>
> Re Investment – [PAG]
>
> Please see enclosed cheque £100,000 which is to be deposited in your client account and used solely for the opening of my own personal account with either [DB] or Commerzbank which will remain under my control. The funds will always remain in this account at all times and only accessed by myself for withdrawal purposes.
>
> The funds will be transferred from your client account to my designated account 100% with no costs or deductions.
>
> I will be allocated an account number which I can access electronically. I will be allocated a further account to collect any profits.
>
> Please acknowledge safe receipt of Cheque via email.
>
> Yours faithfully,
> Gwynfor Lewis".

51. On 14 November 2012, the Respondent wrote and signed a letter to PU which read:

> "Dear Mr Ubsdell,
>
> Re: Client Confirmation – [Mr Lewis].
>
> Thank you very much for your instructions and I confirm that we are delighted to be able to act as paymaster on your behalf in respect of your above named Client.
>
> The funds that we receive on behalf of your clients will be safely held in one of our Client's Escrow accounts, which are accounted for separately from our own moneys and other client funds so as to ensure that any Client funds remain intact for the length of the period that they may be held there. We have three Escrow accounts, Sterling, Dollar and Euro, which are all governed by the rules of the rules of the Solicitors Regulation Authority.
>
> The funds will then be transferred by us to your client's own account which has been set up by you in [DB], full details of (which) you will have provided to your clients in writing in the Asset Management Agreement. Funds will be transferred on a 100% match basis on any funds received. You will then return 100% of the face value of those funds back to our Client Account in accordance with the terms of the AMA for us to then disburse back to your client in accordance with your written instructions.
>
> If any of your clients, or their lawyers or bankers would like to contact me personally to verify my identity or to clarify any point in this letter then please ask them to do so on the details below. If they do want to speak to me then I shall be happy to make myself available at their convenience for the next 48 hours but after that time I would ask that they leave a message and I will return their call in GMT waking hours.
>
> Finally, I am enclosing the detail of my Client Accounts. If anything is unclear then I shall be happy to verify any details.
>
> Yours sincerely,
> Pascale Wood-Atkins".

This will be referred to as "the fifth client confirmation letter".

52. The cheque for £100,000 was pair into the Firm's account on 15 November 2012.

Unknown Transfer

53. On 26 November 2012 the sum of £31,038.02 was received into the Firm's sterling account. The accounting information provided by the Respondent indicated that this was a transfer from the Firm's dollar account, but it was not shown on the dollar bank account statements and it was not clear from whom this money was received.

Payments in 2012

54. An analysis of the Firm's bank statements indicated that in 2012, of the monies received above (from LE, Mr Timmins, Mr Presley, Mr Lewis and the unknown transfer), the following amounts were paid out to:

54.1 Green Paper ("GP"), a company associated with AF - €100,000 and €100,000 (both on or about 10 October 2012);

54.2 Office account - $29,399.82, €100,000, €3,000.24, $29,999.55, £2,010, £1,500, £8,950.14, £5,728.19, £3,732.09 and £5,000;

54.3 Dr Ehler - €145,020.40, €200,020.40, €145,020.18 and €200,020.18;

54.4 Stephen Brown - £5,000, £10,000, £35,000, £10,000, £7,000 and £3,000;

54.5 Pascale Montesa (or Montesanti) - $10,026.06;

54.6 Thunder Run Productions - $500,026.21 and $200,000;

54.7 Blue Earth Limited - $100,026.01;

54.8 Judy Welch - £11,683.12;

54.9 Black Energy - €1,408.49 and €15,687.80;

54.10 Aspacin Group - $50,026.29 and €25,020.10;

54.11 London Re - £50,000;

54.12 Frederick Willia - $15,026.47;

54.13 (Unclear) - $51,187.32.

Payments to office account

55. The payments to office account were purportedly in respect of the Respondent's fees and disbursements.

56. As at 8 October 2012, the Firm's office account was overdrawn by £5,733.64. The Firm had not paid a number of monthly direct debits and standing orders or other obligations for several months.

57. On 9 October 2012, on which date the Firm received $1,959,988.54 from LE, $29,399.82 was transferred to office account, in respect of the Firm's costs, calculated at 1.5% of the sum received.

58. A further payment of €100,000 was made to office account on 10 October 2012. PAG gave instructions on that date with regard to a number of payments, in an email from PU with an attached letter, which read:

"Dear Pascale,

Ref: Transferring funds to Dr Ehlers

Please can you take this as instruction to move the €645,000 to the above lawyer with immediate effect. [AF] has the bank details to send these. We understand the €300,000 which according to Dr Ehlers letter was to be sent to [AF] should now be forwarded to Dr Ehler's account as well.

We would also ask you to hold a further €50,000 to cover costs for you and Judy Welch and also cover the 1.5% cost of you holding monies.

Please confirm once this payment has been sent…"

59. The Respondent replied to PU, copied to MB, in an email on 10 October 2012 timed at 13.50, which read:

"Thanks, Paul.

I will make the payments as requested this afternoon.

Best regards,
Pascale Wood-Atkins".

60. The Respondent then paid €100,000 to her office account, which appeared to be contrary to the instruction set out at paragraph 58 above. In her response to the FIR, which was sent to the Applicant on 18 March 2014, the Respondent stated:

"The amount of £79,321.84 (€100,000 equivalent) relates to outstanding debts of AFAP which were paid by Green Paper from monies properly received by Green Paper from [PAG] for services provided".

61. After this payment to office account, payments were made from office account to pay off arrears which had arisen on the mortgage of the office premises and payments of loans.

62. On 22 November 2012, the Respondent emailed PU regarding the monies held. The email stated:

"Hi, Paul.

I have spoken to Wendy and she has sent me the specific sheet for [FF] as well as suggesting I send you the [PAG] general accounts which shows actual money in and out (one for dollar and one for sterling).

Therefore we do in fact still have almost $1.3 million (£1,269,906.66) accounted towards [FF], which includes the 20% which we are retaining in our accounts and which cannot be withdrawn.

> However, the Dollar balance that we reflect daily as available for use by [PAG] is the current daily balance still available less the 20% retainers per client.
>
> Please note Mr Lewis was very particular about his funds so we are showing that none of this can be taken (less our fee) until you have transferred to a leverage account, just to be on the safe side.
>
> We can go through this when we meet if you have any further questions.
>
> Best regards,
> Pascale Wood-Atkins".

63. The spreadsheet attached to the email indicated that the Firm's fees were taken of $29,399.83 on 9 October 2012, $3,000.24 on 15 October 2012, $29,999.38 on 17 October 2012 and £1,500 on 16 November 2012.

64. A statement of office account transactions produced by the FI Officer indicated that various regular payments were made from office account in respect of various finance arrangements, payments to staff, payments for the mortgage and a payment to the Respondent. In January 2012, those payments totalled £8,631.31; in February £8,613.40; in March £8,619.55; in April £5,478.83; in May £7,532.93; in June £6,436.75 and in July 2012 £5,444.58. In August 2012 only £151.54 was paid out from office account and nothing was paid in September 2012. In October 2012, after 10 October, payments totalling £18,863.80 were made. In November £7,335.31 was paid from office account for the various regular outgoings and in December 2012 £7,335.38 was paid.

The DB Leverage Letter

65. On 24 September 2012 the Respondent had written the letter to PU set out at paragraph 31 above.

66. On 9 October 2012 the Respondent wrote to PU by email to say:

> "Hi, Paul.
>
> When you have a moment would you be able to let me see the DB 10 to 1 leverage letter for my records. I promise faithfully that I will keep this letter completely confidential and no-one in the office other than me will ever see it.
>
> It will be the missing jigsaw piece and will help greatly with my Due Diligence over the fact that we only need to send a proportion of the funds into the client accounts at DB to comply with their understanding that all their funds are being transferred.
>
> Best regards".

67. PU responded on the same day, in an email (the original of which was not held by the Applicant), which read:

"Dear Pascale,

As per your request here is a copy of the DB letter I have password protected.

I am happy for you to keep a copy for your files, but please do not show to anyone else.

Thanks.
The password will follow this mail…"

68. The Respondent replied in an email which read:

"Thanks Paul. I will protect this letter completely.

I have deleted the emails and the password so only I will be able to access the document even if it is found.

Best regards…"

69. By the time of the hearing, it was understood that the letter which had been forwarded by PU on 9 October 2012 was a letter which appeared to be on DB headed paper and which read:

"Classification Confidential.

Blocking Confirmation Account DE87 5707 0024 0013 4544 05

We the signatories below, on behalf of [PAG] and Provartis Fund, confirm that the assets on the master account DE87 5707 0024 0013 4544 05 will be blocked for a minimum time of 30 banking days. A leverage of 10 times will be provided through blocking of the assets on DE87 5707 0224 0013 4544 05 (sic) account. Assets of DE87 5707 0224 0013 4544 05 (sic) can be withdrawn after the period of 30 banking days.

On behalf of [PAG]
Date: 19.07.12

Signature	Signature
Mark Bryan Britan	Paul David Ubsdell"

70. In the FI Report, it was recorded that the Respondent had stated, during the investigation:

"… where my naivety probably was I got sent something that was password protected and told that I had to keep it very confidential… but it did purport to have come from [DB] and had been signed by [MB] and [PU] as sort of countersigning it to say that these accounts did exist… and when I received that I thought, ok, that this is real, because up until that point I had been extremely worried."

Further communications with PAG investors

Mr Timmons

71. On 8 November 2012 Mr Timmons emailed the Respondent, stating:

> "Hi,
>
> I am following up from having transferred $200,000 to you as agent for [PAG]([PU]).
>
> I am just curious as to whether you are still holding these funds or they have been transferred out. Could you tell me your understanding at the current time as to where the funds are?
>
> Thank you.
> [Mr Timmons]"

72. The following day, 9 November 2012, the Respondent sent an email to PU which read:

> "Hi Paul,
>
> Would you kindly let me know what to respond.
>
> Thanks.
> Best regards…"

73. PU responded shortly afterwards in an email which read:

> "I will mail him tomorrow".

74. On 14 November 2012, PU emailed the Respondent to say:

> "Pascale.
>
> I hope you are well.
>
> Please can you call or mail [Mr Timmons] and tell him his money is in your account please, he just wanted to hear from you…"

75. The Respondent replied later that day, in an email which read:

> "Hi, Paul.
>
> Presumably he wants to know if it still in my account (as opposed to whether it arrived safely, as I told him that previously).
>
> Just so I know, what would you like me to say to clients if they ask me why it is still in my account and when it is likely to move?

Best regards"

76. PU responded in an email which read:

"Pascale,

Just say it (is) still in your account and it will be move(d) anytime now to his account we are just arrange (sic) the account now…"

77. On 14 November 2012, in response to Mr Timmons' email of 8 November 2012, the Respondent sent him an email which stated:

"Dear Michael,

The funds are currently still in my Client Account.

I am waiting on the details of the Client Bank Accounts with DB, but understand from [PAG] that this should not be much longer.

Best regards
Pascale Wood- Atkins".

Mr Presley

78. On 30 November 2012, Mr Presley emailed the Respondent, stating:

"Pascale,

I hate that I am writing you this email and that the current matter has come to this. This is formally my second request for you to return my money back to me. As the Undertaker of my funds, I need you to wire the remaining money back to my Coutts & Co Bank account first thing Monday morning, December 3 2012 at the start of the business day in the United Kingdom and/or [PAG] needs to provide me significant funding to my Coutts & Co bank account first thing Monday morning December 3, 2012 at the start of the business day in the United Kingdom (sic). You give (sic) assurance in your letter below * that my funds are fully protected and that you are fully aware this money belongs to me. You also give (sic) assurance that the funds are to only be sent to an account in Malta that is under my control. It has been brought to my attention that an account has not been opened in Malta for my funds to be transferred to and you confirmed by email that my funds are blocked for an interest payment that neither me nor my investor signed off on. You are legally not allowed to block my funds without my consent. Also, we don't have a formal agreement representing the $2 M that was sent to you and 45 days have passed and the money is still sitting in your account. You have undertaken not to distribute funds other than in accordance with the terms of my money moving to designated bank account set up in the name of my company.

> If funds are not returned to me first thing Monday morning December 3 2012, or significant financing is not provided to me first thing Monday morning December 3 2012, then me and my investors will be forced to take legal action against your firm. We will report you and your firm to the SRA and as you state below a breach in the SRA rules could cause in criminal sanctions and loss of your legal practice.
>
> In our conversation we had 4 weeks ago, I told you I had other options on the table that could perform financing immediately and your response was that I should probably take the deal that could provide me immediate financing. The next day you sent me an email that you cannot send me my money back and if you did there would be penalties. I never agreed to any penalties being charged on my money if [PAG] never performed. What I agreed to with [PAG] was that I would transfer $2 Million to you to place into an account that I control so that [PAG] could leverage that up and provide me $70 million of financing. I have numerous emails that were agreed on from the principles (sic) of [PAG] stating that if I moved $2 Million to [the Firm] that Pascale would place into an account that I (Brian Presley) controls and that the $2 Million would be leveraged up to provide me $70 million in financing. That has yet to happen and my investors' money is not being used in the manner that we agreed to. Instead, I was sent back $500k of my investors' money and then I was sent back £200k of my investors' money that at the time the $200k was sent to me it was represented from [PAG] that they were sending me $200k of their own money in the form of bridge financing. I never agreed to advance my investors' money to you and then have [PAG] turn around and use my investors' money as a bridge loan.
>
> I have been forced to show my investors full disclosure of all your emails and letters as well as all the emails between me and the principles (sic) of [PAG]. If money is not in my account first thing this Monday morning then legal action will be taken against your Firm and [PAG] as well as alerting officials at the SRA and FSA.
>
> The past six months I have demonstrated my commitment to [PAG] and my hope is that [PAG] immediately performs on the written commitments they made to me and provides me significant financing this Monday so we can all continue to move forward in a productive manner. In the event that they don't, I would hate to see you and your Firm and all parties thrown into a legal battle. Unfortunately, if the above does not happen Monday, then this will happen…"

The letter then set out Mr Presley's account details.
(* i.e. the email of 16 October 2012 and the attached letter).

79. The Respondent forwarded this email to AF on 1 December 2012, with an email from the Respondent which stated:

> "This is getting really serious… I don't want [the Firm] to get involved of a problem that is not of my making…

> Do you think if the worse come to the worse that [PAG] have funds to sort this out as clearly they have said things to Brian that they have not told me, i.e. that the second $200k was not his own money being returned.
>
> I am being asked to get involved with the call with the lawyers this afternoon but as they are now coming against me personally this is going to be very difficult.
>
> Best wishes,"

80. AF responded by email the same day, "Does Paul know about this request?"

81. The Respondent replied later on 1 December 2012, stating:

> "Hi.
>
> Yes, this was the reply but I think there is an argument that the contract has not been fulfilled by either party and is therefore probably unenforceable by both parties".

This response from the Respondent appeared in the email chain above an email from PU which stated,

> "He knows there will be penalties so hang fire on this.
>
> Regards"

82. On 1 December 2012, Mr Presley sent an email to the Respondent which stated:

> "Pascale,
>
> I have just finished a not so pleasant call with [PU] and a compliance officer who is representing me and my investors. They have made it clear that if wires aren't sent at 9am Monday morning in the UK, then they will be taking all legal action against your firm and [PAG] and providing all emails and documentation to SRA and FSA. They will not stop until all parties are held accountable. Just to be clear, either send the $1.3M that is left in your account and/or [PAG] needs to provide me funding. I am sure [PU] will brief you on the conversation, but this will get extremely ugly for everyone.
>
> Again, please advise when wires are sent.
>
> Brian Presley".

83. The Respondent forwarded this to PU, who responded in an email later on 1 December 2012, stating:

> "I will discuss this tomorrow this is Brian spin" (sic).

84. The Respondent then wrote an email to PU on the morning of 2 December 2012, which stated:

> "Hi, Paul.
>
> I am becoming increasedly (sic) worried that Brian is trying to drag me into this row personally – presumably because he thinks he can frighten me into just sending the money anyway, and I would like to put something in writing to block this path.
>
> I therefore would like to send this email but wanted to check with you first. I can leave out the bit about extortion but wanted to make it clear that he is also stepping over a line by making these threats…
>
> Pascale".

There followed below this email the text of a proposed email to Mr Presley, which read:

> "Dear Brian,
>
> It has always been made very clear to you that my Client is [PAG] and that I cannot release money to you or anyone else without their permission. To do so would give rise to an action against me by the SRA brought by my Client.
>
> I would also like to make it very clear that your dispute is with [PAG] with whom you have entered into the contract. My instructions were always very clearly stated. The email that you quoted was written to give the necessary assurances that this firm would not divert the money for its own purposes, and the firm has not done this.
>
> Therefore your email constitutes a threat against this firm that I will bring to the necessary authorities if required and indeed could constitute extortion as you are clearly attempting to force me to carry out an action which I am unable to do, with a direct threat of harm against my firm is I fail to comply.
>
> Therefore I would request that you cease these threats against my firm immediately".

85. Later on 2 December 2012, PU sent to Mr Presley an email, copied to the Respondent, to MB and to another, which set out PU's views on why the money should not be returned to Mr Presley. The Respondent sent an email to Mr Presley on 2 December 2012 which was in substantially the terms set out in the draft at paragraph 84 above.

Factual Background – Phase 2

86. Although a number of transactions concerning Phase 2 of the Respondent's dealings with PAG and others were set out in the Rule 5 Statement, these were not dealt with in detail during the hearing and so are set out briefly below.

87. Doubts arose by about mid-November 2012 about the existence of the banking licence allegedly held by or for Prince Carlos of Hanover, whether through Bank Frey or otherwise. JW pursued investigations about this as a result of which MB, PU and AF

agreed to work towards a scheme in Hong Kong which did not require a banking licence.

88. Under the new scheme, monies would be received and transferred to a bank account held by a new company, Provartis Capital Limited ("Provartis Capital") where they would be invested by a Hong Kong solicitor, Mr Chang. Provartis Capital was a vehicle owned by the Respondent solely for this purpose, although it was envisaged that she would hold the company as nominee for MB, PU and AF.

89. Sums from other investors (SP Ltd and MG) were transferred to Provartis Capital via Mr Chang, together with further sums from the original investors.

90. Apart from the sums received from SP Ltd and MG, which were paid in their entirety to Mr Chang, the following sums were paid out of the Firm's accounts to:

90.1 Provartis Capital - $1,000,040.35 and $98,518;

90.2 Office account - £5,709.29 and £8,134.89;

90.3 Black Energy - €23,519.76;

90.4 (Unclear) - $30,065.14.

These payments out were of monies received during Phase 1. The payments to the Respondent's office account were purportedly in respect of the Firm's fees and disbursements.

91. In the period 25 January 2013 to 13 August 2013, the following sums were paid:

91.1 Into the Firm's accounts from Provartis Capital - £34,696.01; £49,985; £50,000; $134,963.88; $249,964.18; $249,964.14; €98,972.21 i.e. £134,681.01 and $634,892.20 and €98,972.21;

91.2 From the Firm's accounts to:

91.2.1 KS Hundal - $60,025.79;
91.2.2 SP Ltd - $250,024.81 and $250,024.58;
91.2.3 AF - €30,018.94;
91.2.4 KNO - $20,077.20;
91.2.5 FF - $20,037.84;
91.2.6 Mr Lewis - £24,500;
91.2.7 Office account - £1,138.23; £4,353.44; £25,000; £10,000; £5,703.09; £5,000; £3,000 and £2,000;
91.2.8 London Re - £50,000;
91.2.9 Provartis Capital - €99,018.98; and
91.2.10 (Unclear) - £5,000.

These payments totalled $590,190.22 and €129,037.92 and £140,694.76.

92. Three of the transfers to office account (£1,138.23 and £4,353.44 on 1 February 2013 and £5,703.09 on 13 February 2013) were stated to be in respect of a bill dated 31 March 2013. That bill, addressed to Provartis Capital in Hong Kong was headed "Amended retainer for legal work carried out up to February 2013". The narrative read:

> "Retainer for professional services rendered by [the Respondent] between 1 January and 28 February 2013.
>
> It was agreed that the monthly retainer be increased retrospectively to £20,000 as from 1 January 2013 (less any money paid by [PAG].
>
> Thus £40,000 less £10,000 already paid by [PAG]. Balance £30,000"

Termination of Instructions

93. On 15 March 2013, the Respondent terminated instructions from PAG in a letter addressed to MB of PAG, which read:

> "Dear Mr Britain,
>
> Re: Termination of Instructions
>
> Following the discussion over the last day or two I am writing to confirm the termination of the instructions from to [the Firm] by [PAG].
>
> As you are fully aware, I have acted for [AF] and [GP Ltd] for a number of years prior to taking instructions from [PAG] but we were all comfortable that this arrangement would work as we (were) working for a common purpose.
>
> Recently, I have become more and more aware that acting for your company together with that of GP has become difficult, especially as you have sought to involve me in matters which are completely contrary to my professional integrity and ethics, I would by way of example refer to the Mr Henry Wilson request.
>
> I am therefore compelled to write to you, to say that I will be ceasing my instructions with [PAG] with immediate effect. As you are fully aware, [PAG] has not provided any of its own funds to this venture and GP has thankfully agreed to utilise its own capital to cover the costs that have been accrued. I will therefore continue to act on behalf of [Provartis Capital] and will ensure that the obligations of the Company with respect to the clients that have placed money in [Provartis Capital] continue to be adhered to until such time as the current contractual obligations cease.
>
> Yours sincerely,
> Pascale Wood-Atkins".

94. In an email of the same date (15 March 2013), to PU and MB, the Respondent stated:

> "Dear Mark and Paul,
>
> I have now been in long conversation this morning with my accountant.
>
> Whilst the missing Client account funds have been replaced through the action of [GP's] trustees, and I am hoping from the Firm's point of view that I am able to avoid further repercussions on me, nonetheless my accountant has advised me strongly that I must now stop acting for [PAG] with immediate effect.
>
> Furthermore, I have been in conversation with [GP's] trustees. There is now a clear conflict of interest with my existing client [GP] and I therefore find myself in a situation that I cannot take any further instructions from [MB] and [PU].
>
> I am now working through the details with [GP's] trustees which I expect to take at least until start of the week.
>
> Best regards,
> Pascale Wood-Atkins".

95. The FI Report recorded that the Respondent had given the following explanation for ceasing to act for PAG at that stage:

> "The reason that I ceased to act for them in mid-March was because it was becoming more and more obvious that the facts that they had originally said were unravelling, the licences they claimed to have. Black Energy International had done more digging and just couldn't establish that those licences existed. We've never got to the absolute bottom that they don't exist, but I very much doubt it. Their behaviour became more and more, as they became more comfortable, their behaviour became more suspicious and then spilled over from suspicious into downright, I mean I was refusing to do things, they also started indicating that I wasn't the kind of lawyer they wanted because I wasn't being flexible enough, in other words I was actually challenging pretty much everything they were asking me to do or say and that's why they returned to their own lawyer, which was MR at E, and got him to start doing stuff".

96. The Respondent did not return any of the client monies held in relation to the PAG retainer to any party until about July 2013.

Later position

97. As at 7 October 2013, the Respondent indicated that $10,075,000 was held by Mr Chang in Hong Kong on trust for Provartis Capital and that she was attempting to recover the funds and repay the original capital. The Respondent's position was that GP would introduce fresh funds and make up any shortfall.

98. As at 17 March 2014, the Respondent/Provartis Capital was still trying to secure a trading opportunity in Hong Kong.

99. In the course of the investigation, the Respondent told the FI Officer that she was not aware of the Warning Notice (set out at paragraph 20 above) until the investigation began but later stated that she was aware of the Notice and that her previous statement was incorrect. The Respondent's position throughout was that she had acted in good faith at all times and had never knowingly involved herself in any fraudulent activity. The Respondent denied that her role had been to give the PAG scheme credibility and instead that it was to provide legal advice across the whole structure of the scheme. The Respondent also contended that she believed that the leveraged accounts and the instructions from PAG allowed her to make the payments out of client account which she made.

Witnesses

Applicant

100. Mr Adam Howells, the FI Officer, gave evidence for the Applicant and confirmed that the contents of the FI Report were true to the best of his knowledge, information and belief.

101. Mr Howells was cross examined, in particular with regard to the accuracy of the remarks attributed to the Respondent in the FI Report and/or the context in which those remarks may have been made. Mr Howells told the Tribunal that no transcript of the formal interview with the Respondent had been prepared but he had listened to extracts from the recording of the interview in preparing his report.

Respondent

102. The Respondent gave evidence on her own behalf. She confirmed that the contents of her witness statement were true to the best of her knowledge, information and belief and that the contents of her written response made to the Applicant in relation to the FIR were true. After giving evidence in chief, the Respondent was cross examined by Mr Tabachnik for the Applicant. Details of her evidence are not set out at this point, but will be referred to in relation to the relevant findings and issues.

103. Three of the twenty character referees who had provided written testimonials attended the Tribunal to give evidence.

104. Mr Brian Beanland, OBE FCIS, former Company Secretary and Business Support Director of Guinness Brewing Worldwide, confirmed that his letter dated 12 November 2014 was true. He had been the Respondent's direct manager for approximately 7 years. Mr Beanland told the Tribunal that he had found the Respondent to be an excellent lawyer, who was honest and trustworthy. Although there was no specific incidence which had led him to this conclusion, Mr Beanland had formed the view that the Respondent was a person who tended to believe the best of people. Mr Beanland told the Tribunal that the work done by the Respondent whilst he was her manager included drafting contracts, and negotiations; on occasions the Respondent would lead some meetings and carry out negotiations albeit that all

contracts had to be approved by Mr Beanland. When the Respondent moved to Diageo's offices, the team there dealt with international contracts. Mr Beanland told the Tribunal that the Respondent's understanding of contractual documents was accurate and she had displayed competence. When Mr Beanland had wanted assistance with a charity with which he was involved, he had approached the Respondent for legal help.

105. Mr Kevin Horton, an experienced litigator who had worked with the Respondent for various periods from about mid-2008 to early 2011, confirmed that the contents of his statement dated 3 March 2015 were true. Mr Horton told the Tribunal that he first worked for the Respondent shortly after an experienced senior litigator had left the Firm, leaving behind incomplete and inadequately conducted files and the associated disruption. Mr Horton told the Tribunal that he had been impressed with the way that the Respondent had dealt with matters; she had been candid with clients and had ensured that they were not left out of pocket. On at least two occasions of which Mr Horton was aware, the Respondent had been so open as to inform clients that they may have reason to report her to the Law Society/SRA. Mr Horton emphasised that the Respondent had not sought to brush any of the problems under the carpet. The Respondent had undertaken a lot of pro bono work, helping out businesses which were in trouble. It had seemed to Mr Horton that the Respondent had undertaken more work of this kind than he had considered reasonable. Mr Horton told the Tribunal that the Respondent was almost entirely without guile and although it was probably a bit too strong to describe her as fundamentally naïve, the Respondent lacked "nous". Mr Horton had formed the view that the Respondent would not make a good contentious lawyer and that she was not especially strategic in her approach. Mr Horton described the Respondent as "old school"; she would assume that other solicitors would also be open and honest with her.

106. Mr Horton further expanded on his written statement. He told the Tribunal that the Respondent was not street-wise, but was good with the technical side of non-contentious work. The Respondent had always been honest, and he suspected that she would be a poor liar. The Respondent had been open with the Firm's auditors. When Mr Horton had commented to the Respondent that she would not get rich doing so much pro bono work, she had told him that she did not particularly want to be rich. Mr Horton told the Tribunal that he believed that the Respondent was a credit to the profession; she was open, straightforward and put the interests of clients first. Mr Horton could not recall if the Respondent had ever undertaken work for friends or family members, but she had taken on some cases because she felt sorry for the individuals concerned. Mr Horton told the Tribunal that with some clients the Respondent may have been a bit "soft", and possibly the fact that there was a business relationship became blurred. Mr Horton told the Tribunal that when he presented his analysis of a case to the Respondent, she rarely challenged him and had been happy to follow his advice, for example with regard to one complicated piece of litigation which had been left in a mess by the former employee. Mr Horton told the Tribunal that the Respondent did not allow her "softness" to interfere with her rational approach to matters. Mr Horton told the Tribunal that he believed that the Respondent could cope in an in-house environment, undertaking drafting work. Her Firm had been competently run, with the exception of the litigation work handled by the former employee. The Respondent's commercial weakness was undertaking too much pro bono work. Mr Horton told the Tribunal that all of his invoices had been

paid on time, and the Respondent was obsessive about paying suppliers on time even when cashflow was an issue.

107. Mr Alexander Oliver Dittmar confirmed that the contents of his witness statement dated 3 April 2015 were true, subject to the correction of one date. Mr Dittmar told the Tribunal that he was managing partner of a consulting company in Germany and had a number of business interests including in oil and gas and in property development. Mr Dittmar told the Tribunal that he had travelled from Germany at his own expense to speak on behalf of the Respondent. Mr Dittmar had met AF in or about October 2012, having been introduced by a business acquaintance, Ms CK. At that point, AF had been promoting or involved in a project in Mauritius to develop housing, schools etc. AF had spoken to Mr Dittmar about having between €600 million and €1 billion to invest in schemes in Mauritius. Mr Dittmar told the Tribunal that he had believed that AF had access to funds and was well connected; he appeared educated and reputable. Mr Dittmar told the Tribunal that AF had arranged meetings with senior government officials in Mauritius in connection with the proposed investment and development schemes, but had not himself travelled to Mauritius. AF told Mr Dittmar and others that he had arranged a private jet to transport them from Qatar to Mauritius, but the plane did not arrive and the group – including the Respondent, whom Mr Dittmar met for the first time accompanied by her family – travelled there on flights arranged by Mr Dittmar. Mr Dittmar told the Tribunal that the Respondent had produced proof of funds to the government officials, apparently provided by AF. Whilst in Mauritius, the Respondent and Mr Dittmar had worked to set up three companies to carry out the development projects. AF had promised the foundation funding for the project but did not produce this and Mr Dittmar had provided the funding himself to avoid the loss of the project and had remained involved in projects in Mauritius. Mr Dittmar told the Tribunal that he and others had all been misled by AF. His experience of working with the Respondent in Mauritius was that she was hard-working and focussed on her client's business interests. Although Mauritius was beautiful, the Respondent had worked all the time they were there and had not taken time off with her family to visit the beaches etc. Mr Dittmar told the Tribunal that the Respondent had been honest, genuine and professional. They had developed a good working relationship, such that the Respondent's son had visited Mr Dittmar's family in Germany.

108. There were no questions from Mr Tabachnik. In response to a question from the Tribunal, Mr Dittmar told the Tribunal that he had trusted the people he worked with and in particular Ms CK who said that she had previously done business with AF. As a result, he had not carried out his own enquiries into AF, but had learned his lesson. Mr Dittmar told the Tribunal that in about July or August 2013 Ms CK had told him that AF was in trouble; Mr Dittmar had tried to contact him, but AF had disappeared. In response to a further question, Mr Dittmar told the Tribunal that he had not properly seen the proof of funds document provided on AF's behalf to the government of Mauritius; he had believed the document to be true as it was submitted by AF's lawyer and he had assumed that the Mauritian authorities would check its authenticity. Mr Dittmar confirmed that he had never seen AF and the Respondent together. In meetings in which the Respondent represented AF, she had presented as very professional and had focussed on AF's interests. Mr Dittmar told the Tribunal that the Respondent had never lied to him but had protected AF. When the

Respondent had realised that AF had misled Mr Dittmar and others she had tried to save them from loss, possibly because she felt guilty that AF had misled them.

Findings of Fact and Law

109. 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 her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

110. As noted above, these proceedings were brought against the Respondent. Although comments are, necessarily, made concerning the roles of AF, JW, PU, MB and others the Tribunal was not required to and did not make findings against those individuals. Where comments are made concerning, for example, fraudulent or apparently fraudulent activities by any or all of those individuals or their associated businesses, those comments are made in order to provide the proper context for the findings concerning the Respondent.

111. The Respondent accepted, and the Tribunal found, that the Respondent had written each of the letters or emails which bore her name, as set out between paragraphs 26 and 94 above. Further, it was accepted by the Respondent that she had received the various emails and letters which appeared to be addressed or sent to her, on or about the dates noted on those documents. What was in issue was the meaning and context of that correspondence and, in particular, what the Respondent had known or believed at the times the letters and emails were written.

112. The Respondent accepted, correctly, that the responsibility for what had happened rested with her, as the sole principal of the Firm. The Tribunal accepted that certain tasks had been delegated to others, in particular to the office manager, "Wendy", but found that nothing that was done by others reduced the Respondent's direct and personal responsibility for the letters which had been written and the transfers of money which had occurred.

113. The Tribunal considered the factual background and made a number of findings of fact before determining the individual allegations.

The Respondent's background and experience

114. The Tribunal found that the Respondent was an experienced and competent solicitor, who had throughout her career specialised in company/commercial work. By the time of the events in question, the Respondent had been a solicitor for about 24 years. She had trained with substantial and reputable firms of solicitors and had then worked in-house for Guinness Brewing/Diageo before setting up her own Firm, which specialised in company/commercial and business work.

115. The Tribunal had heard evidence from Mr Beanland, who had been the Respondent's direct manager for a number of years. He had spoken of the Respondent's honesty and trustworthiness and had told the Tribunal that he found her an excellent lawyer; in particular, her understanding of contractual documentation had been accurate. Mr Beanland had told the Tribunal that the Respondent would lead some meetings

and carry out negotiations, albeit contracts could not be signed off without his approval. Mr Horton had also spoken of the Respondent's honesty and had told the Tribunal that the Respondent was good in dealing with technical points in non-contentious work. Mr Dittmar had told the Tribunal that the Respondent had been hard-working and focussed on her client's interests. All had indicated that she was competent and professional in her working life.

116. The Tribunal accepted, in the light of this evidence – and the various testimonials presented to the Tribunal – that the Respondent had no propensity to dishonesty; she was, fundamentally, honest and decent. Notwithstanding this the Tribunal had to consider, of course, whether the particular facts and matters underlying the specific allegations had been proved in the light of its finding that the Respondent had no disposition towards dishonesty.

117. The Tribunal further found that the Respondent's competence lay particularly in her ability to draft and consider documents. The fact that she was careful with words was clear from the evidence of Mr Beanland in particular. Also, the Tribunal noted that in her own evidence, the Respondent had drawn attention to the fact that a note of a meeting between herself and the FI Officer had been poorly drafted. Although some of the letters and emails drafted by the Respondent contained grammatical and/or spelling errors, the Tribunal found that the Respondent was a competent and careful user of English and could both understand documents presented to her and draft documents with care and precision.

The Respondent's Firm

118. The Tribunal found that the Respondent had established her own Firm in early 2001 and had been sole principal throughout its existence. Whilst the Firm had never made a lot of money, the Tribunal was satisfied that it had been generally a well-run Firm; Mr Horton's evidence confirmed this point.

119. The Tribunal had also heard from Mr Horton that the Respondent had not been motivated by money. In Mr Horton's view, the Respondent had undertaken too much pro bono or poorly paid work. He had told the Tribunal – and the Tribunal accepted – that at one point he had remarked to the Respondent that she would never become rich if she did so much pro bono work and that the Respondent had replied that she did not particularly want to be rich. The Tribunal accepted that the Respondent was not motivated by the pursuit of money. However, it was clear from the way in which she gave her evidence and the evidence of those who had worked with her that she was motivated by wanting to work in new areas, preferably on interesting matters. The latter point was particularly clear from the Respondent's oral evidence, in which she had told the Tribunal that she often took instructions on areas new to her, provided she could do the research into those areas. It could also be reasonably and necessarily inferred that the Respondent – like any solicitor – would prefer financial security to insecurity and that as a solicitor running her own Firm she would like that Firm to be stable and, preferably, successful. The Respondent had also referred in her evidence to having a long-term link with AF's businesses, and the Tribunal was satisfied that the Respondent had been interested in forming and maintaining a business relationship with AF, who could provide her Firm with interesting and profitable work. The Respondent told the Tribunal that she had not succumbed to temptation,

but that the work on offer from AF seemed "real and substantial", and that was welcome.

120. The Tribunal had heard a considerable amount of evidence concerning the Firm's financial position, particularly during 2012. The Applicant had characterised the Respondent's actions in relation to PAG and its associated persons as being motivated by the Firm's serious financial difficulties at the relevant time; the income from the PAG matter had eased those difficulties, and provided a good income to the Firm from October 2012.

121. The Respondent did not deny that the Firm had faced a cashflow problem in the summer of 2012. The Tribunal was satisfied, on the Respondent's own evidence, that these difficulties were substantially caused by AF's failure to pay costs due to the Firm. The Tribunal accepted that AF had paid the Firm's bills regularly and without any problems in 2011 and early 2012. However, he had told the Respondent that he had cashflow problems from about June 2012 due to divorce proceedings in which he was engaged. The Respondent told the Tribunal, and the Tribunal accepted, that she had pressed AF for payment and that he had repeatedly – and convincingly – told the Respondent that he would pay. The Tribunal heard from the Respondent, and accepted, that the fees owed by AF's company, GP, were in the region of £79,000 from about May 2012.

122. The Tribunal was referred to an application by the Firm for Professional Indemnity Insurance ("PII") (which document was handed up by the Applicant during the hearing). The date on which this was signed was not apparent on the face of the document, but it referred to the "current financial year" as being the financial year ending 31 December 2012. From this document, it was clear that the Respondent had confirmed on the PII application that:

122.1 her Firm's fee income for the year ended 2009 was £174,962, all generated in the UK;

122.2 her Firm's fee income for the year ended 2010 was £145,279, all generated in the UK, and the Firm had made a net loss of £5,464;

122.3 her Firm's fee income for the year ended 2011 was £163,517, of which £56,043.50 was generated outside the UK and the Firm had made a net profit of £17,493;

122.4 her Firm's fee income for the current year (the year ending 31 December 2012) was (or would be) £333,562, of which £204,000 was generated outside the UK;

122.5 her Firm's estimated fee income for the year ending 31 December 2013 was £348,000 of which £300,000 was estimated to be generated outside the UK;

122.6 the Respondent's drawings had been £38,820 in the year ended 2010, £32,993 in the year ended 2011 and £38,839 in the year ended 2011.

123. The Tribunal heard, and accepted, that the fee income for 2011 included some fees charged to AF and his companies (all of which were understood to be based in Gibraltar) and/or JW and her companies (which were also based in Gibraltar). It was

understood that AF and his companies first instructed the Respondent in or about May 2011.

124. It was put to the Respondent in cross examination that the figures noted above illustrated that the sum owed by AF/his companies in the summer of 2012 (about £79,000) was not far short of half of the Firm's actual fee income for 2011 (£163,517). The Tribunal was satisfied that the sum owed by AF from about May 2012 was a very significant proportion of the Firm's usual income. AF's delay in paying the bill therefore had a significant impact on the Firm's financial position.

125. The Tribunal was further satisfied that the figures given set out by the Applicant for payments made from office account were as set out at paragraph 64 above. It was clear that the Firm's regular outgoings in early 2012 were between about £5,500 and £8,600 per month. In August 2012 only £151.54 was paid out from office account, and no payments were made in September 2012. It was therefore clear that the Firm had considerable cashflow problems in the summer of 2012. Payments were made from 10 October 2012 to "catch up" with the payments due e.g. in respect of the mortgage on the Firm's premises.

126. The Respondent had given evidence that the Firm had gone through similar periods of poor cashflow, and that the Firm had been able to continue as she had drawn on her personal resources to meet the Firm's obligations. There was nothing from the Applicant to gainsay this. Further, the Respondent had told the Tribunal that she had negotiated with the bank and other creditors and had persuaded them that they would be paid in due course; as a result, whilst the Firm was not in a good financial position, it was not in serious financial difficulties. Further, the Tribunal heard from the Respondent that had the cashflow problems continued, she would have been able to pay the Firm's debts using her own or her family resources. Again, there was no evidence from the Applicant to gainsay it. The Tribunal was therefore satisfied that whilst the Firm's financial situation was poor, it was not in such a difficult situation that it was irretrievable. This is discussed further in relation to allegation 1.8 below.

The Respondent's relationship with AF, PU, MB and PAG

127. The Tribunal heard, and accepted, that AF was introduced to the Respondent by JW, an acquaintance of the Respondent's. JW's role in the PAG matter and the extent of her involvement in AF's business dealings were unclear; it appeared from the Respondent's evidence, taken as a whole, that the Respondent did not blame JW for what had happened and, indeed, still appeared to hold her in some regard. What was clear was that the Respondent had respected JW's professional experience; the Respondent believed that JW had been a tax partner with Deloitte. The Respondent's evidence had also indicated that she had, to an extent, been in awe of or scared by JW; she had described an occasion when JW had given her a twenty minute tirade about confidentiality, and told the Tribunal that this was not something that she had wanted to experience again.

128. The Respondent had first dealt with AF through JW, from about May 2011. It appeared that the Respondent first met and dealt with AF directly from about June or July 2011 in respect of various business matters. The Respondent described AF as being affable and charming. He had also appeared to be very wealthy and to be

involved in trading, particularly in relation to Hong Kong. AF had spoken to the Respondent about investment schemes which would be used to support charitable projects in health and education, for example. AF had discussed with the Respondent his plan to set up a partnership structure, with the objective of funding philanthropic projects from the profits generated by an insurance arm (to be set up in Gibraltar) and other schemes. The Tribunal found, on the basis of the Respondent's own evidence, that she had been attracted by the prospect of undertaking work which was interesting (with an international dimension), would be financially worthwhile and had a philanthropic aim. Indeed, in the Respondent's witness statement, she had set out that AF had seen "this as a great opportunity to be able to have a solid client, as there would be a good deal of legal work required in the setting up and running of the various sides to the operation and to start working on the (charitable) foundations".

129. It was AF who introduced the Respondent to PU, MB and PAG and gave an initial explanation of the investment and trading schemes in which they were to be involved. It was not clear from the Respondent's evidence at what point she had met PU and/or MB but, in any event, it was accepted by the Respondent that she had not met them before the initial correspondence in September 2012.

130. The Respondent had given evidence that much of the practical work of client identification and "due diligence" was undertaken by the office manager, Wendy, but the Respondent correctly accepted that she was responsible for this process. The Tribunal found that it was the responsibility of the Respondent, as a solicitor and as the principal of the Firm, to ensure that all checks on her clients were properly and thoroughly carried out. The Tribunal found that the Respondent obtained the documents set out at paragraph 25 above.

131. The Respondent told the Tribunal that she had believed that PAG was a company of substance and that PU and/or MB were authorised to give instructions on its behalf. She had received assurances from AF and JW, as well as receiving some documents from or on behalf of PAG. The Respondent had also been told that PAG were able, in some way, to use an association with Prince Carlos of Hanover who (she was told) had a banking licence. The Tribunal found the following inadequacies in the Respondent's enquiries into PAG and its business:

131.1 The certified copies of the passports of PU and MB were not clearly photocopied and, as the Respondent had not met these individuals at the time the copy passports were provided, she could not know that the people purporting to be PU and/or MB were who they said they were. In the event, it appeared to be accepted that PU and/or MB had been the individuals giving instructions but all that the copy passports showed was that two such individuals existed;

131.2 MB's surname was spelt as "Britain" on the passport, but on the letter purportedly confirming the DB leverage account (provided in October 2012), his surname was spelt as "Britan";

131.3 The email address purportedly for PAG's bankers in Guernsey was a "Black Energy" email address i.e. was an email address for JW;

131.4 The client information sheet provided by PAG referred to there being funds available "for 1st tranche" of €500,000,000 (sic). It did not appear that the mention of such a huge sum caused the Respondent to investigate further. This was of particular concern where the company search on PAG showed that it had a credit limit of a mere CHF 5,000.

131.5 The client information sheet provided by PAG stated that the origin of the €500,000,000 was "business activities within insurance and telecoms", whereas the company search stated that PAG's principal activity was "other activities auxiliary to financial services **except** insurance and pension funding" (emphasis added).

131.6 The Respondent had made no enquiries to establish who "Banc Pac" were. This entity was stated to be a private bank, but the Respondent had not sought or obtained confirmation of this.

131.7 The Respondent did not notice that the Banc Pac documents appeared to show that PAG's "monthly statement of business account" had increased by over $377 million over the weekend of 1/2 July 2012.

131.8 There was nothing to indicate that the Respondent had queried why PAG was seeking money from external investors if it had a ledger asset balance of $106,398,611,111.11, as stated on the "Banc Pac" document.

131.9 The Respondent had relied on a letter, purporting to be from the shareholder and director of PAG, as authority to take instructions from PU and/or MB on behalf of PAG. The role of Mr AA, who was the sole member of the board of directors according to the company search, in the activities of PU and/or MB was unclear.

131.10 The Respondent failed to give any, or any proper weight, to the searches which showed that both PU and MB had been directors of a number of failed or dissolved companies. Whilst the Tribunal accepted that even the most successful businessmen/women may have some failures on the road to success, there was nothing in the search history which showed that either PU or MB were associated with successful businesses.

132. In all of these circumstances, it was hard to believe that a solicitor of the Respondent's experience had believed that PU and MB (and/or AF) were men of substance and had at their disposal assets running into billions of dollars.

133. However, the Tribunal accepted that the Respondent had taken these individuals at face value and had believed that they were operating in financial markets and trading which were of extremely high value. The Respondent had spoken of being "groomed" by AF and the others, over a period of time, such that she had believed that they belonged in the high-rolling world of which they claimed to be part. The Respondent had told the Tribunal, for example, that she had worked with AF in relation to high-yielding investments and had taken counsel's advice to ensure that that scheme was as it purported to be. It was not unusual, unfortunately, for solicitors to be "groomed" in this way; the Tribunal had seen a number of instances where individuals had initially carried out legitimate and proper work for individuals, who

had paid their bills promptly and thus appeared to be credible, only for later work to be tainted with illegality.

134. The Applicant did not have to prove that the Respondent was anything other than the pawn of a number of fraudsters, and they did not and could not do so. Whilst it may surprise the profession that an experienced member of the profession could fall so far under the influence of fraudsters that it was as if (in the Respondent's description) she was a member of a "cult", the Tribunal accepted that the Respondent had completely lacked any "nous" as Mr Horton put it. The Respondent had been gullible and had probably fallen prey to being flattered by apparently very rich and successful businessmen choosing to instruct her small Firm in Buckinghamshire.

135. The Tribunal accepted that the Respondent had (mistakenly) believed a number of things which, in hindsight, she had accepted seemed incredible. These are set out further below, in relation to the PAG investment scheme. The Tribunal further accepted that the Respondent had remained under the influence of AF and/or JW even after she ceased to act for PU/MB. Indeed, it appeared from the way in which she gave evidence that she still found it hard to believe quite how much she had been taken in by those involved with PAG.

PAG's Activities

136. The Tribunal found, for the purposes of this hearing, that PU, MB and AF had been involved in fraudulent schemes, through the vehicle of PAG. The Respondent was involved to the extent that she had allowed her name and professional status to be used to give credibility to the activities of the fraudsters, and her assurances had been relied on by various PAG investors who had then lost all or part of their money.

137. At its simplest, PAG had persuaded investors that it could generate astonishingly good returns and/or obtain financing for them if their money was placed in the first instance with the Respondent. PAG persuaded the investors (LE, Mr Timmons, Mr Presley and Mr Lewis) that their money would be safe with the Respondent and would thereafter be transferred to an account with DB (in Malta) for use in trading and/or raising finance. That account would, it was said, be under the control of the investor.

138. Having obtained substantial sums for the investors, PAG instructed the Respondent to pay out a large proportion of those sums to persons associated with PAG and to take her own fees from the investors' money. As a result, the Respondent retained only a proportion of the investors' money on her client account (during Phase 1) whilst a number of individuals and companies were paid "commissions" or introduction fees or similar. No account was ever opened at DB.

139. One of the issues for the Tribunal was whether and why the Respondent had disbursed money to third parties, and taken her own fees, when the wording of the various "client confirmation letters" indicated that the investors' funds would be safe in her client account.

Client Confirmation Letters

140. The first iteration of the letter, dated 25 September 2012, stated that:

> "We write to enable you to confirm on our behalf to your Client(s) that any moneys held within this firm shall be safely held in our Client's escrow account, which are accounted for separately so as to ensure that any Client funds remain intact for the length of the period that they may be held there.
>
> Money will then be transferred by us to your Client's own account which has been set up in [DB] Malta on their behalf by you, [PAG], full details of (which) you will provide in writing. Funds will be transferred on a 100% match basis on any funds received."

141. The second iteration of the letter, also dated 25 September 2012, stated:

> "The funds that we receive on behalf of your Clients will be safely held in our Client's Escrow accounts, which are accounted for separately from our own moneys and other Client funds so as to ensure that any Client funds remain intact for the length of the period that they may be held there. We have three Escrow accounts, Sterling, Dollar and Euro, which are all governed by the rules of the Solicitors' Regulation Authority.
>
> The funds will then be transferred by us to your Client's own account which has been set up by you in [DB] Malta, full details of (which) you will have provided to your Clients in writing in the Asset Management Agreement.
>
> Funds will be transferred on a 100% match basis on any funds received."

142. The third version of the client confirmation letter, dated 8 October 2012, stated:

> "The funds that we receive on behalf of your Client will be safely held in our Client Account(s), which are accounted for separately from our own moneys and other Client funds so as to ensure that any Client funds remain intact for the length of the period that they may be held there. We have three Escrow accounts, Sterling, Dollar and Euro, which are all governed by the rules of the Solicitors Regulation Authority.
>
> The funds will then be transferred by us to your Client's own account which has been set up by you in [DB] Malta, full details of (which) you will have provided to your Client in writing in the Asset Management Agreement. You will then return 100% of the face value of those funds back to our Client Account within 60 days for us to then disburse back to the Client in accordance with your written instructions."

143. The fourth version of the client confirmation letter, dated 16 October 2012, stated:

> "The funds that we receive on behalf of your Client will be safely held in our Client Account(s), which are accounted for separately from our own moneys and other Client funds so as to ensure that any Client funds remain intact for the length of the period that they may be held there. We have three Escrow

> accounts, Sterling, Dollar and Euro, which are all governed by the rules of the rules of the Solicitors Regulation Authority.
>
> The funds will be transferred by us to your Client's own account which has been set up by you in [DB] Malta, full details of (which) you will have provided to your Client in writing in the Asset Management Agreement."

144. The fifth client confirmation letter, dated 14 November 2012, stated:

> "The funds that we receive on behalf of your clients will be safely held in one of our Client's Escrow accounts, which are accounted for separately from our own moneys and other client funds so as to ensure that any Client funds remain intact for the length of the period that they may be held there. We have three Escrow accounts, Sterling, Dollar and Euro, which are all governed by the rules of the rules of the Solicitors Regulation Authority.
>
> The funds will then be transferred by us to your client's own account which has been set up by you in [DB], full details of (which) you will have provided to your clients in writing in the Asset Management Agreement. Funds will be transferred on a 100% match basis on any funds received. You will then return 100% of the face value of those funds back to our Client Account in accordance with the terms of the AMA for us to then disburse back to your client in accordance with your written instructions."

145. As noted above, the Tribunal found that each of these letters had been written by the Respondent and sent by her to PU on or about the date indicated; indeed, the Respondent did not dispute that she had written these letters. The Tribunal further found that the Respondent knew that these letters were being provided to PAG for PAG to pass on to their potential investors. This was made clear in one of the Respondent's letters to PU on 25 September 2012, set out at paragraph 33 above, which stated:

> "I also am sending through a letter that can be sent to your clients with my bank details and also my contact details if anyone would like to check that I exist and am really carrying out the paymaster services."

The Tribunal noted that the client confirmation letters included the Respondent's client bank details and her contact details. These letters clearly were passed to the PAG investors, as those individuals and their associated companies contacted the Respondent. The Tribunal noted that in her oral evidence the Respondent stated that she did not know how the letters were used by PAG, but the Tribunal was satisfied from the wording of her own email to PU that she was aware the letters would be passed to potential investors.

146. The Tribunal was satisfied on the evidence that the PAG investors had relied, at least in part, on the contents of the client confirmation letters. It was not proved to the required standard which version of the letter went to LE/Dr Hundal, but the Tribunal was satisfied that the first, second and third versions of the client confirmation letter were produced before the first tranche of funds, from LE, arrived on 9 October 2012 so LE could not have received the later versions. The Tribunal noted that the third

client confirmation letter specifically referred to KNO/Mr Timmons, so the Tribunal was satisfied that this letter was produced to be passed to KNO/Mr Timmons. The fourth client confirmation letter referred in the heading to FF/TR/Mr Presley and so the Tribunal was satisfied that this was the letter sent to that investor. The fifth version referred to Mr Lewis and so the Tribunal was satisfied that it was this version which was passed to him.

147. The Tribunal considered the terms in which the letters were written. What was notable was that the letters had been adapted to express certain matters in slightly different ways. For example, the first and second versions simply referred to client funds remaining intact whereas by the third version there was reference to what would happen at a later stage i.e. that 100% of the face value of the funds would be returned to the Respondent's client account within 60 days. The fourth version referred to the Asset Management Agreement ("AMA") but gave no specific date for return of funds and the fifth version referred to transferring funds on a "100% match basis" and return of 100% of the face value of the funds. The Tribunal found that the production of these slightly amended versions of the letter, in the period from 25 September to 14 November 2012, gave the Respondent opportunities to consider whether the contents were correct and whether it was proper to write in these terms. Indeed, under cross examination the Respondent had told the Tribunal that she was careful.

148. The Respondent had been asked about these letters. She accepted that the reference in each version to a DB account "which has been set up" was unfortunate and the wording was wrong, as no DB account was ever actually set up. The Tribunal accepted that this was indeed unfortunate and wrong, as each letter would give the impression that a DB account had been established. The letters were therefore potentially misleading to those reading them.

149. The Respondent told the Tribunal that she had written in the terms set out, whilst believing she was able to deduct money from the investors' funds, because she believed that the funds would be transferred to a DB "leveraged" account on a 10:1 basis i.e. that she only needed to retain and pass on to DB 10% of the investors' funds. In fact, the Respondent told the Tribunal, she had decided to retain 20% of the investors' funds to be cautious. The Respondent was adamant in her evidence that she believed that the investors' accounts with DB would be credited with the full value of the investment. More will be said below about the DB leveraged account and the Respondent's belief in this.

150. In any event, whatever the Respondent believed, the Tribunal found that the clear and ordinary meaning of each letter i.e. the meaning which would be attached by anyone not already part of the PAG operation was that all of the funds deposited in the Respondent's client account would be passed to a DB account (or, perhaps, an account with Commerzbank). No-one reading the letters would think that the Respondent would deduct anything, including her own fees, from the funds. The Respondent told the Tribunal in evidence that it was only in hindsight that she could see this "alternative" meaning to the letters and that she had believed the investors' money would be completely safe. The Tribunal could not accept that an intelligent and experienced solicitor such as the Respondent, particularly one who was careful with words throughout her career, would not understand the words she had written.

Asset Management Agreement

151. The Respondent was asked about the AMA, which was apparently made between PAG and its investors. The Respondent told the Tribunal that she had not been involved in preparing that Agreement but she understood that PAG was giving a commercial guarantee to its investors.

152. The Respondent told the Tribunal that her instructions were that PAG were able to trade in bank Notes (or other financial instruments), such that they would receive a return of 40% per month (sic) on either the amounts actually deposited with DB, or the amounts which would supposedly be credited to the leveraged accounts by DB – the Respondent was not sure on this point. However, she told the Tribunal that she understood and believed that the profits would be more than enough to give the investors a good return, particularly as the return on the trading was guaranteed.

153. The Respondent told the Tribunal that because of her earlier dealings with AF, she had believed that very high returns were possible, so she had not found it unusual that PAG was suggesting it would achieve 40% per month. It was put to the Respondent that this was astonishingly unrealistic; the Respondent told the Tribunal that she had had people tell her that schemes like this worked and had seen enough such that she did not think it unusual to talk about 40% per month returns. The Respondent had been satisfied that PAG would produce the returns and that there was no risk to the investors' money as, if anything went wrong, it would be made good by PU, AF and others whom she believed to be people of substance and wealth.

154. The Respondent told the Tribunal that she had received a copy of the AMA between PAG and LE as part of the "know your client" pack of documents. She had noted that it did not refer to a return of 40% per month, or any other specific rate of return. The Respondent told the Tribunal that she had read the AMA. The Respondent also told the Tribunal that the issue about the leveraged accounts was totally separate; the investors did not know that PAG proposed to put 10% of their funds into a leveraged account, such that it would appear that 100% had been transferred to DB.

155. The Tribunal noted that at Article 1, paragraph 6, of the AMA it was stated,

> "All monies received by PAG shall, until used or applied as herein provided, be held in trust for the purposes for which they were received."

At Article 2, paragraph 2, there was reference to "the quoted returns" but these did not appear to be stated in the AMA document.

At Article 2, paragraph 6, it was stated:

> "No service charge shall be made for any registration of transfer or exchange of securities, but PAG may require payment of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with any registration or transfer or exchange of securities, other than exchanges, not involving any transfer".

At Article 2, paragraph 9, it was stated:

> "PAG will withhold three percent (3%) of said monthly amount from the total gross profits of the trade; which it will use to cover consultancy fees and legal costs. This consultancy fee shall be deducted before any profit is distributed to the investor".

At Article 3, paragraph 1, it was stated:

> "Any profit generated, less the consultancy fee, from the investment shall be equally divided between PAG and the investor, meaning that each party shall receive fifty percent (50%) of the net profit".

156. It was put to the Respondent that the AMA, extracts from which are noted above, meant that PAG would receive 3% from the profits generated, not the amounts invested, and that legal and other fees would also be paid from profits, not from the money invested. The Respondent agreed that this appeared to be what the AMA said and told the Tribunal that she had not read the AMA in detail as it was simply part of the "know your client" information pack. The Respondent told the Tribunal that she could not recall if she read the section (at Article 2, paragraph 9) about legal costs before LE sent its money (and she deducted her Firm's costs) and that she was not sure that this section referred to her Firm's costs.

157. The Respondent told the Tribunal that her belief, at all relevant times, was that because of the leveraged accounts and the type of trading in which PAG would engage, the PAG investors would receive all of their money. The Respondent told the Tribunal that she had believed the leveraged accounts would be opened very soon, that the trading would start and that profits would be generated. The Respondent also told the Tribunal that the issue of the leveraged accounts – about which the investors knew nothing – was a separate issue to the AMAs.

DB Leverage Account Letter

158. On 24 September 2012, the Respondent wrote to PU in the terms set out at paragraph 31 above. The letter included the following:

> "Further to your instructions for us to act on your behalf as paymaster, we write to confirm that the terms of the Deutsche Bank leverage account will be 10:1.
>
> If you require any further confirmation on any other point then please do not hesitate to contact us."

159. The Respondent accepted that at the time that letter was written, she had not seen any document from DB (or anyone else) which showed that a leveraged account had been or could be established for PAG, whether on 10:1 terms or otherwise.

160. The Respondent's explanation for writing the letter in those terms was that all she was doing was, in effect, confirming back to her client the instructions she had been given. It was not clear to the Respondent what the purpose of such a letter was, or whether it

was to be shown to anyone; the Respondent was clear that she did not expect it to be shown to an investor, as the investors were not being told about the "leveraged accounts" to which PAG proposed to transfer their money.

161. The Tribunal accepted that whilst PU or someone else involved in the PAG scheme may have read the letter as simply repeating back to the client what the client had told the Respondent, any third party – including the Tribunal – would understand the letter to be a confirmation that there would be a DB leveraged account on a 10:1 basis. In order for the letter to have the meaning attributed to it by the Respondent, it would have to be qualified to say something like, "We write to confirm that you have instructed us that the terms of the DB leverage account will be 10:1". The reference to "your instructions" in the first part of the sentence related to acting as paymaster and did not attach, on a normal reading, to the second part of the sentence. Further, the Tribunal noted that the later sentence, inviting PU to contact the Respondent if he required any further confirmation on any other point, gave the whole letter the appearance of being an information letter – confirming the terms of an account – rather than confirmation back to a client of information given by the client.

"Confirmation" of DB account

162. As already noted, the Respondent did not have any independent documentation confirming that DB had or would be prepared to set up leveraged accounts for use by PAG investors.

163. On 9 October 2012 the Respondent wrote to PU in the terms set out at paragraph 66 above. The Tribunal accepted that this letter illustrated that in the period immediately before receipt of funds from LE, the Respondent apparently understood (and accepted) that only a proportion of the investors' funds had to be transferred to the (promised) DB account in order to comply with the investors' understanding that "all their funds are being transferred". It also illustrated that the Respondent was aware that the investors had no idea that PAG/the Respondent proposed to transfer part of their funds away before any funds were lodged in the (promised) DB account(s).

164. In response to that request, PU sent to the Respondent a document on 9 October 2012 in the terms set out at paragraph 69 above. The Respondent told the Tribunal that she had not been particularly worried or concerned about whether the DB accounts would be created, but this document allayed any fears she had. The Respondent told the Tribunal that she had understood this document came from DB and she had read it as a letter confirming that PAG had an account with DB. The Respondent told the Tribunal that she had believed AD completely at the time, but could now "pick holes" in the document and could see that it did not "look real". The Respondent told the Tribunal that she had simply wanted confirmation that DB were prepared to set up a leveraged account and this document confirmed the instructions she had already had from PAG. The Respondent did not accept in her evidence that her thought process at the time, in reading this document as supporting the DB/PAG relationship, was flawed. The Respondent accepted that she had never seen documents concerning PAG bank accounts but understood that PAG had assets in "paper bonds".

165. The Tribunal found that the document quoted at paragraph 66 did not even purport to be signed or authorised by any official from DB, albeit it appeared crudely to be on DB headed paper. The signatures were stated to be "on behalf of [PAG]", not on behalf of DB. The Tribunal noted that the spelling of MB's surname on this document was not the same as on the copy passport provided to the Respondent. It further noted that the account number referred to as the "master account" was not stated consistently, with some transposition of digits. There was no indication of the funds allegedly held on the "master account". Further, the document was apparently dated 19 July 2012, and referred to the assets on the master account being "blocked" for 30 banking days; that period had passed by the time this document was sent to the Respondent.

The Respondent's Beliefs

166. The Respondent's main defence to a number of allegations, including the allegations of dishonesty, was that she had been misled by fraudsters. She had told the Tribunal that she had been groomed and that she had believed what they told her about the existence of leveraged bank accounts (which they said DB would set up for them/their investors) and that it was possible to obtain a 40% per month return on investments, with no risk to the underlying capital. The Respondent had further told the Tribunal that she had not been concerned or worried about the PAG scheme during "Phase 1" and denied that during the investigation she had told the FI Officer that she had been worried.

167. With regard to the latter point, the Respondent told the Tribunal that she had not received a transcript of her formal interview with the FI Officer. The FIR recorded the Respondent as saying that up until the point when she had received the letter set out at paragraph 66 above, she had "been extremely worried". The Respondent told the Tribunal that some of her words had been taken out of context or were not recorded correctly.

168. It was unfortunate that the Applicant had not provided the Respondent with a transcript of the long, formal interview but the Tribunal noted that the Respondent had not specifically requested either a transcript or a copy of the recording of the interview. The Tribunal determined that it did not, in any event, have to rely on any disputed comment which may or may not have been made to the FI Officer.

169. Whilst it was surprising that the Respondent had been taken in to such a huge extent by those associated with PAG, the Tribunal accepted that she had been duped by AF, PU and MB. The Tribunal accepted that she had, at the relevant times, held the following beliefs:

169.1 Those associated with PAG were successful and wealthy businessmen, who had impressive contacts and access to assets of billions of dollars;

169.2 PAG had access to or could somehow use or be associated with a banking licence held by Prince Carlos of Hanover;

169.3 PAG could set up accounts with DB which would be "leveraged" such that a payment in of, say, £100,000 would be treated as a deposit of £1 million;

169.4 PAG could trade in bank or other financial instruments so as to generate a return of 40% per month; and

169.5 As a result of the latter two points, it was acceptable to pay away money from investors other than into a DB account.

170. The Respondent had acknowledged in her evidence, rightly, that from the outside it did not seem possible to believe these things, but said she had done so as she was within a situation which was akin to being in a cult. As the Respondent put it, it was hard to understand how a sane, rational, intelligent solicitor could believe these things. Nevertheless, the Tribunal accepted that the Respondent had, mistakenly, trusted those associated with PAG and believed what they said, even where that information was challenged by any independent information, such as the company searches and directorship searches.

171. The Tribunal also found, on the basis of the Respondent's evidence, that whilst she knew that a large proportion of the investors' money would be paid away, the investors had no idea this may happen. The Tribunal also found that the Respondent knew that the investors expected that all of their funds would be transferred to a DB account, as she knew that they were unaware that PAG proposed to use leveraged accounts.

Correspondence with PAG investors

172. In her evidence, the Respondent told the Tribunal that her understanding was that the client confirmation letters, and other correspondence from her Firm, were to give comfort to investors as in order to start the trading programme, one had to overcome the natural suspicions of the investors. The Tribunal found that this was indeed the case; the purpose of PAG involving the Respondent in correspondence with its investors, or using letters on her Firm's letterhead, was to give some assurance that the scheme was legitimate. More particularly, the correspondence passed to or written specifically to the investors, was intended to reassure them that their money would be safe when passed to the Firm. There could be no other reasonable interpretation of the various letters which were prepared by the Respondent prior to the receipt of investors' funds.

173. The Respondent had told the Tribunal in her evidence that one of the purposes of the client confirmation letters was to reassure the investors that she was not a "dodgy" solicitor who would use their money for her own purposes. This was, in fact, what the Respondent had done, by taking her Firm's costs from the sums paid into her client account when the investors had reason to believe (on the basis of the AMA) that any legal or other costs would be paid from the profits generated by PAG's trading.

174. The Tribunal noted that the Respondent had stated in her evidence (under cross examination) that if she had told Mr Presley or others that she had paid away part of their money, that would not have sat well with the instructions from PAG, and the investors would have "pulled the plug".

175. The Tribunal noted the terms in which the Respondent had communicated with LE, FF/Mr Presley, KNO/Mr Timmons and Mr Lewis, as set out at paragraphs 35/36, 39/40, 45-47, 50/51, 71-78 and 82 above. The Tribunal was satisfied that a combination of the relevant client confirmation letter and the individual communications with the investors (or their purported representatives) would have given the investors assurance that all of their funds would be protected in the Firm's client account until transferred to an account with DB of which the investors themselves would be the signatories. The Tribunal noted and found, in particular, that the terms of the communications with Mr Timmons were unambiguous in that they could only, properly, be read with one normal meaning. In response to Mr Presley's correspondence on 8 November 2012 (see paragraph 71 above), stating,

> "I am just curious as to whether you are still holding these funds or they have been transferred out. Could you tell me your understanding at the current time as to where the funds are?"

The Respondent sent an email to Mr Timmons on 14 November 2012, stating,

> "The funds are currently still in my Client Account".

176. This was clearly not the case, as on the date of receipt (15 October 2012) the Respondent had deducted costs of $3,000.24 from the KNO/Mr Timmons money. As the Respondent had not kept the investors' funds separate, it was not possible to say with certainty whose money had been used to make which payment. However, of the total received from Mr Timmons, Mr Presley and/or LE by 14 November 2012 (a little over $4,159,946), significant sums had been transferred – see paragraph 54 above. Analysis of the payments made, and the spreadsheet prepared by the FI Officer, showed that (in addition to the return of over $700,000 to Mr Presley/TR), the Respondent had transferred from her client account: over $110,000; over €1 million; and £50,000.

Other

177. The Tribunal accepted and found that the Respondent had made the various transfers to her office account and/or to pay various commissions etc. in accordance with the instructions she received from PAG. There was no suggestion that she had made or taken any payments without the express instruction and/or approval of those representing PAG.

178. The Tribunal primarily reached its conclusions on the basis of the documents, having taken into account the Respondent's representations and evidence concerning those documents. Where there was any doubt, the benefit of that doubt had been given to the Respondent. However, the Tribunal wished to make some comments on the way in which the Respondent had given her evidence.

179. First of all, the Respondent had not displayed any real insight into her misconduct. In particular, she had rejected the suggestion that she had made a colossal error of judgment in taking her fees from Mr Lewis' money, although she had accepted by that point that she had had more concerns by the time his money arrived as the DB accounts had still not been opened. The Respondent had frequently apologised to the

Tribunal for any delay in finding the right page in the bundle when giving evidence and had appeared gentle in her demeanour, compliant and naïve at the beginning of each session in which she gave evidence. However, the Respondent had subsequently as her evidence progressed displayed irritability and had been combative in her manner of answering Mr Tabachnik's questions. The Tribunal noted that Mr Treverton-Jones had – properly and understandably – interjected at various points when the Respondent had become rattled and irritable, but this had not prevented the repetition of this pattern of behaviour.

180. The Tribunal also noted that the Respondent displayed considerable mental agility under cross examination. She demonstrated through some of her responses that she was aware where various lines of questions were leading. Her answers had been qualified on occasions and on others she had refused to answer straightforward questions. Whilst the Tribunal accepted that the Respondent had, mistakenly, believed a number of incredible things about PAG, it also noted that her expressions of naivety and her "ingénue" manner at the beginning of each session of evidence did not sit well with her considerable experience and, indeed, the many glowing testimonials she had been given.

181. The Tribunal then considered the terms of the various allegations, and whether they had been proved to the required standard.

182. **Allegation 1.1 - Failed to act with integrity, in breach of Principle 2 of the SRA Principles 2011 ("the Principles") and that the actions relied upon by the Applicant were dishonest. The Applicant relied on the following matters in support of the allegation:**

1.1.1 At the request of her client, Provartis AG, and its agents, the Respondent provided a letter confirming the terms of a leveraged account without seeing the underlying evidential document, despite later claiming that she had seen them (the evidential documents);

1.1.2 The Respondent made false representations to customers of Provartis AG that, if they paid their money to the Firm, that money would be sent to Deutsche Bank/Commerzbank;

1.1.3 In breach of those representations to customers of Provartis AG, and without contacting those customers, the Respondent made payments of their money to third parties and to the Firm's Office Account, paying off substantial arrears and debts which were owed by the Firm;

1.1.4 The Respondent made false statements to customers of Provartis AG that the monies were still in her client account, when they had previously been paid out to third parties and her Office Account; and

1.1.5 Despite her knowledge of the Applicant's warning notice on fraudulent financial arrangements, the Respondent proceeded to act in transactions which displayed every single:

1.1.5.1 warning sign; and

1.1.5.2 justification for instructing a solicitor

which featured in that warning notice.

182.1 This allegation was denied by the Respondent.

182.2 The Tribunal found that the Respondent had written in the terms set out at paragraph 31 above on 24 September 2012, at the request of AF (who had apparent authority to give instructions for PAG) as set out in his email to the Respondent of the same date. The Tribunal found, as set out above, that this letter confirmed the terms of a supposed leveraged account with DB which never came into existence. The Tribunal could not accept the Respondent's explanation that this letter simply repeated to the client the instructions she had been given. There would be no need for any such confirmation – at least not in a brief letter which did not record the other terms on which instructions were accepted. Further, the letter invited PU to contact the Respondent for clarification of any other points; this suggested that there really was such an account or that there was an agreement for it to be set up. The letter would not give anyone reading it, including the Tribunal, any indication that the Respondent was simply confirming back to PU what he had told her. Given that the Tribunal was satisfied that the Respondent had been a competent solicitor, who drafted documents carefully, it would be astonishing to think she had worded a letter so badly if she meant it to mean what she now said it did. In any event, the wording of the letter accorded with the Respondent's evidence that she had really believed there was or would be a leveraged account into which investors' money would be paid. If she believed this to be the case, the wording of the letter was not surprising.

182.3 What was beyond any doubt was that the Respondent had not seen any document as at 24 September 2012 which went anywhere towards showing that there was or would be a leveraged account.

182.4 The document which the Respondent received from PU on 9 October 2012 (set out at paragraph 69 above) was a letter which, even on its face, did not purport to be a confirmation from DB of a leveraged account. The most obvious errors and concerns with the letter are set out at paragraph 165 above. Even if the Respondent had seen the document by the time she wrote the letter on 24 September 2012, it would still have been an entirely inappropriate letter to write as there was nothing in the document which provided any evidence that DB would open a 10:1 leveraged account for PAG.

182.5 The Tribunal concluded that the letter to PU which confirmed there was or would be a DB leveraged account was written in circumstances which demonstrated a clear lack of integrity and/or recklessness on the part of the Respondent. She had not taken the steps that a solicitor acting with integrity would take in order to ensure that what she wrote was true and accurate and/or that it could not be misused. Whilst there was nothing to suggest that PAG had used that letter to deceive the investors dealt with in this case, such a letter could have been used to demonstrate to others that there was or would be a DB leveraged account.

182.6 The Tribunal was satisfied that, at the relevant time, the Respondent believed that PAG would set up an account or accounts with DB and/or Commerzbank. Further, the Tribunal was satisfied that the Respondent believed that it was only necessary to pay 10% of the investors' funds into the proposed DB account (although she had, out of caution on her evidence, decided to retain 20% to be transferred to the DB account). The Tribunal considered carefully the terms of the various representations made to investors, whether in the "client confirmation letters" or otherwise. There could be no doubt that the clear and normal interpretation of the terms of those letters was that 100% of the funds deposited with the Respondent would be retained safely, until all of the funds were transferred to DB. Those representations were clearly false since, on the Respondent's own case, she believed she did not have to retain 100% of the monies sent to her and she did not do so. Indeed, the Respondent deducted 1.5% of the sums received by way of her fees immediately on receipt. The Respondent therefore knew that, in representing that the investors' money would be paid to DB, she was not giving the whole picture; she believed that only part of the money would be paid to DB. In fact, of course, no accounts were set up with DB and none of the investors' money was sent to any account with DB.

182.7 The Tribunal noted Mr Treverton-Jones' submissions that the Respondent did not concede that she knew any of the representations she made to investors to be false, at the time, but that she accepted that she was aware of how much was in her client account and what had been transferred out. The Respondent conceded that her initial representations to investors – and the later, individual representations – were inaccurate but did not concede they were "consciously inaccurate".

182.8 The Tribunal was satisfied that in making the representations she did to PAG's investors, the Respondent knew that the representations that all of the money would be safe with her was not correct as she believed it was acceptable to pay a significant part of it away. Again, this conduct displayed a clear and undoubted lack of integrity. Her correspondence with the investors was far from frank and accurate in a situation in which the Respondent acknowledged that the purpose of her involvement was to give assurance to the investors. The Respondent accepted under cross examination that she had a duty not to mislead a third party and the Tribunal found that this must be correct; solicitors must display the utmost probity and integrity in all of their dealings. Writing to those who would rely on the assurances given in the correspondence in a way which was inaccurate and was known by the Respondent to be inaccurate at the relevant time was an action which lacked integrity.

182.9 The Tribunal further found that, in breach of the representations that the investors' funds would be intact in her client account, the Respondent caused substantial payments to be made to third parties from the client account, as set out in particular at paragraph 54 above, and deducted sums for her own costs. One of the payments enabled her client GP (controlled by AF) to pay off the costs which had been outstanding since about May 2012. This, in turn, allowed the Firm to make "catch up" payments towards the mortgage account, to pay various sums due under finance arrangements and (on the Respondent's evidence) to repay a loan her husband had made to pay staff salaries. The Tribunal was satisfied that the investors were not consulted about the transfer of sums out of client account to pay various third parties and to pay the Respondent's costs, nor were they informed at the time or subsequently.

182.10 The Tribunal was satisfied that the Respondent knew what she had indicated to the investors. Whilst, on her evidence, she believed she was entitled to make the payments and take her costs (because of her instructions from PAG), the Respondent was well aware that the investors did not have any idea that such monies would be paid away. The Tribunal found that this conduct lacked integrity. The Respondent had not only misled the investors, but had actively engaged in conduct which was contrary to the representations she had made.

182.11 The Tribunal found that in her correspondence with Mr Timmons (as set out at paragraphs 71 and 77) the Respondent had specifically represented that Mr Timmons' money remained on her client account when, as noted at paragraph 175 above, significant sums had been paid away. The Respondent's explanation of this exchange, as simply confirming that the money had not yet been transferred to DB, was not credible. A solicitor writing to a third party and acting with integrity would have had to declare that a proportion of the money remained on client account, the remainder had been disbursed and nothing had been transferred to DB. Of course, the Respondent could not write in such terms without her client's instructions and such instructions would not be given where it would cause the investors to lose all faith in PAG. This conflict between acting properly, and what the client would permit the Respondent to say, should have been clear to the Respondent and caused her to question her relationship with PAG.

182.12 The Tribunal was satisfied that in writing as she did to Mr Timmons, the Respondent had lacked integrity.

182.13 With regard to the exchanges with Mr Presley, the Tribunal noted the terms in which the Respondent proposed to reply to Mr Presley's emails of 30 November and 1 December 2012 (as set out at paragraphs 78 and 82), which were set out in a draft sent to PU on 2 December 2012 (see paragraph 84 above). The Tribunal noted that the Respondent wrote to Mr Presley on 2 December in very similar terms to those set out at paragraph 84. The key phrase, in the Tribunal's view, was the statement that the letter was written to give the necessary assurances "that this Firm would not divert the money for its own purposes, and the Firm has not done this". The Tribunal found this statement to be incorrect'; the Respondent had taken costs from Mr Presley's money. This was indeed a diversion of funds for the Firm's own purposes; receiving costs was for the benefit of the Firm and the funds were "diverted" as Mr Presley had no idea they would be (or were) used to pay costs.

182.14 To that extent, the Tribunal was satisfied that the Respondent had also lacked integrity in dealing with the correspondence from Mr Presley; she had chosen not to reveal the true position, which was that Mr Presley's money had been used for various purposes, including the Firm's purposes.

182.15 The Tribunal accepted that the Respondent had been aware of the Applicant's warning card on fraudulent financial arrangements, as set out at paragraph 20 above; the Respondent had accepted this in her case and her evidence.

182.16 The Tribunal found that the PAG scheme involved: the promise of unrealistically high returns (40% per month, with no risk); a deal or deals which appeared to be part of larger deals, involving millions of dollars, pounds and/or Euros; trading in apparent

banking instruments; confusing and complex transactions involving misleading descriptions and ill-defined terminology (for example the "master account" and "blocking" referred to in the document set out at paragraph 69, and the use of "leveraged accounts"); vague references to humanitarian or charitable aims (as in AF's references to the "strategic partnership" being designed to generate profits for use in humanitarian works, and the proposed investments in Mauritius); the need for secrecy to protect the scheme (in particular, requiring that the investors knew nothing of the purported leveraged accounts) and the use of easily forged documents, particularly from offshore companies or financial institutions abroad. The letter on DB notepaper was a particular crude example of a document which had been created by uplifting and using DB's genuine headed paper or logos (which may have been downloaded from the internet).

182.17 The Tribunal further found that the Respondent was used because she gave the appearance of legitimacy and security to the scheme. The only explanation she was able to give as to why the investors paid the money into her account, rather than directly into a DB account, was that PAG's relationship with DB may have been damaged if the money had not been available for immediate transfer when the account was established. This was an inadequate and implausible reason for involving a solicitor, particularly where the Respondent had not seen anything from DB explaining a) their willingness in principle to open the accounts and b) the need for the money to be available immediately.

182.18 The Respondent was not in spite of her experience as a commercial solicitor an expert in banking law, financial trading or investments and operated from a sole practice Firm in Buckinghamshire. Whilst the Tribunal accepted that the Firm often carried out work of greater complexity than the size of the Firm might suggest – because of the Respondent's City and in-house experience – it was nevertheless odd that what appeared to be an international and wealthy business operation chose to instruct a small Firm which did not have the niche experience which was required for complex international banking matters.

182.19 The Respondent had told the Tribunal that no warning bells had sounded as she dealt with matters for PAG. Nevertheless, this instance fell squarely into the type of fraud against which the SRA's warning card warned. The only feature listed on the warning card which may not have applied here was the "advance fee" limb, although there had been reference to the need to pay Aspacin $50,000 or more to secure funding. Mr Treverton-Jones, correctly, conceded that whilst the wording of the allegation referred to displaying "every single" warning sign and justification for instructing a solicitor, the Applicant did not have to show that every feature was present. The Tribunal was satisfied to the required standard that the majority of features identified on the warning card were present in the PAG scheme. The warning card had been issued in 2009 and the Respondent was aware of it. The Respondent had not, it appeared, considered that there was any risk that her client was engaged in any fraudulent activity; had she taken any time to consider the circumstances and the warning card, the dangers of being involved with PAG should have been very clear indeed.

182.20 The Tribunal was satisfied that the Respondent had acted for PAG when there was a clear danger that the instructions were designed to procure a fraud. To take instructions from a new client, where the due diligence into the client and its activities was deficient – as detailed above – and where the Respondent had no expertise in any relevant areas without at least considering if the warning card applied showed a lack of integrity. Whilst the Tribunal, as noted above, was not satisfied that the Respondent was motivated by the pursuit of profit, it was satisfied that the prospect of interesting and well-paid work, which may have a charitable outcome, together with the flattery involved in being instructed by what appeared to be major players in banking/trading was sufficient to prevent the Respondent looking into what her client was really up to.

182.21 The Tribunal wished to make it clear that it did not find that the Respondent was herself involved in the fraud committed by others. However, the fact that she acted for PAG and gave assurances to their investors facilitated the fraud by PAG.

182.22 For the reasons set out above, the Tribunal was satisfied to the required standard that this allegation of lack of integrity had been proved in all respects.

183. **Allegation 1.2 - Allowed her independence to be compromised, in breach of Principle 3 of the Principles, by making false representations to customers/third parties at the request of her client.**

183.1 This allegation was denied by the Respondent.

183.2 As noted above, in relation to allegation 1.1, and in the sections at paragraphs 140 to 150 and 172 to 176, the Tribunal was satisfied to the required standard that the Respondent had made false representations to third parties, in particular the PAG investors, in particular with regard to the retention of the investors' money in her client account.

183.3 The first client confirmation letter had been generated at the request of AF, but not dictated by him. The Tribunal found that the terms of the client confirmation letters had been amended to deal with the particular concerns or issues raised by the potential investors e.g. as to the period for which the money would be held and when it would be returned. The Respondent had amended the letters at the request of PU/MB and/or AF; at the point each amendment was made, she had no direct contact with the investors and so amended the letters at the request of her client and not at the request of the investors or of her own initiative.

183.4 Further, the Tribunal noted and found that in the additional representations made to Mr Timmons and Mr Presley, in response to their specific requests, the Respondent referred to her clients before responding. There was nothing inherently wrong in seeking instructions from a client on how to respond to a letter from a third party. However, in this instance the Respondent acted on the PAG instructions even when those instructions were to write something untrue. This was particularly notable in the correspondence with Mr Timmons, where the Respondent asked "Would you kindly let me know what to respond", was instructed, "Please can you call or mail [Mr Timmons] and tell him his money is in your account" and later, "Just say it (is) still in your account and it will be move(d) anytime now..". Thereafter, the

Respondent wrote to Mr Timmons, stating "The funds are currently still in my Client Account." This was not correct; some of Mr Timmons' money, with other monies from investors, had been disbursed on the instructions of PAG, as the Respondent knew. Some of Mr Timmons' funds were in the client account, and none had been transferred to DB, but it was clearly a false representation to tell a third party, who understood all of his money was being safeguarded (and who knew nothing of the proposed leveraged accounts) that "the funds are currently still in my Client Account".

183.5 The Tribunal was satisfied that the Respondent had made false representations to third parties at the request of her client, PAG.

183.6 Although the Respondent denied this allegation, in her Defence, the Tribunal noted that the Respondent stated, "My errors lay in being too trusting of the [PU/MB/AF]". The Tribunal accepted that this was the case. The Respondent had trusted and relied on those involved in PAG to the extent that she had acted on their instructions even where those instructions were to write something untrue. Indeed, the Respondent had relied in her defence to the various allegations on the extent to which she had believed and trusted AF, PU and MB; the Respondent's independence had been compromised.

183.7 The Tribunal found, to the required standard, that this allegation had been proved.

184. **Allegation 1.3 - Failed to behave in a way that maintained the trust the public placed in her and in the provision of legal services, in breach of Principle 6, by making false representations to members of the public and using their money without their authority, and contrary to those representations.**

184.1 This allegation was denied by the Respondent, save that the Respondent admitted that she had transferred money out of client account in a way which was inconsistent with the assurances she had given. The alleged breach of Principle 6 was denied.

184.2 There was no doubt, as noted in the findings above, that the Respondent had made false representations to the PAG investors concerning how their money would be safeguarded, in circumstances where the Respondent believed that she was entitled to take her costs and pay away large sums from the amounts deposited with her.

184.3 The Tribunal noted that in the third, fourth and fifth client confirmation letters (i.e. those for the benefit of Mr Timmons, Mr Presley and Mr Lewis), there was reference to the agreement, or AMA, between PAG and the investor. At that point, on the Respondent's own evidence, she had not considered the AMA in any detail although she had read it. The Respondent told the Tribunal in her evidence that she had not noted the provision in the AMA about legal and other costs being payable from profits, rather than from the sums deposited. To make representations to the investors that the money would be held in accordance with an agreement of which, as she now said, she had no proper knowledge was itself conduct which would diminish the trust the public would place in the Respondent.

184.4 The Tribunal was satisfied to the required standard that making false representations and then using the investors' money in a way which was contrary to the representations and without the authority of the investors, was conduct which would

diminish the trust the public would place in the Respondent and in the provision of legal services. The allegation had been proved to the required standard.

185. **Allegation 1.4 - Failed promptly to return client money to the persons on whose behalf the money was held, as soon as there was no longer any reason to retain those funds, in breach of Rule 14.3 of the SRA Accounts Rules 2011 ("AR 2011") following termination of her retainer with Provartis AG.**

185.1 This allegation was denied by the Respondent.

185.2 The Tribunal found that various sums were deposited in the Respondent's client account between about 9 October until 31 October 2012. The Respondent's understanding, on her own evidence, was that those funds would be held for a short time before being transferred to a leveraged account with DB. There had been reference in correspondence, e.g. from Dr Hundal, to return of the funds after 21 days if the trading had not started by then. The Respondent was aware that there was no intention that the funds would remain in her account for a long period.

185.3 The Tribunal noted that Phase 2 of the matter, which involved Provartis Capital (in which the Respondent herself was actively engaged in trying to arrange trading to take place in Hong Kong) was, in some respects, a continuation of Phase 1 and some of the funds deposited in Phase 1. The precise circumstances of Phase 2 were not explored during the hearing, but the Tribunal accepted that some of the Phase 1 funds were retained in order to facilitate Phase 2, with the agreement of the investors.

185.4 What was clear was that on 15 March 2013 the Respondent terminated her retainer with PAG – see paragraphs 93 and 94 above.

185.5 Therefore, any money held on the ledger for PAG should have been transferred to a relevant other account (where instructed to do so) or returned the money to those entitled to it promptly.

185.6 The FI Officer's analysis of the transactions on the PAG account, which was not challenged by the Respondent, indicated that on 15 March 2013, a little over $6,000 was transferred to the Provartis Capital account. On 3 July 2013, funds were transferred from the PAG Euro account to the PAG dollar account and thereafter, on 16 July 2013, a little over $20,000 was transferred to KNO/Mr Timmons and a little over $10,000 to FF/Mr Presley. £24,500 was paid out of the sterling account to Mr Lewis on 19 July 2013. Thereafter, the Respondent transferred a total of £10,000 for her Firm's costs from the sterling account.

185.7 The Respondent had not provided any explanation for retaining funds to which the PAG investors were entitled for about four months after the retainer was terminated. In her defence, she had referred to the ongoing Provartis Capital matter (on which she was still receiving instructions from AF) but there was nothing to indicate that the investors had instructed her to retain their funds on the PAG account. The Respondent had not secured the clear instructions of the investors to transfer their money to the Provartis Capital ledger, or to retain them on the PAG ledger.

185.8 The Tribunal was satisfied to the required standard that the Respondent had failed promptly to return funds to the PAG investors after termination of the PAG retainer.

186. **Allegation 1.5 - Provided banking facilities through her client accounts, in breach of Rule 14.5 of the AR 2011. Each and all transactions through the Firm's Client Account (as set out in the Rule 5 Statement) save for payments to the Firm's Office Account, involved the provision of banking facilities.**

186.1 This allegation was admitted by the Respondent.

186.2 The Tribunal reviewed all of the evidence, and the Respondent's explanation for what had happened. The Respondent told the Tribunal that in spite of her admission she had believed that there was an underlying legal transaction, in that she would be carrying out work to establish the "strategic partnership" which was proposed between AF and PAG. The Respondent told the Tribunal that the provision of what had been described in her correspondence as "paymaster" services was simply the first part of the overall project.

186.3 What was clear from all of the evidence was that in relation to the receipt of monies from investors, and the payments out of various sums on the instructions of PAG, there was no underlying legal transaction on which the Respondent was instructed. The name given to the assistance she provided to PAG – "paymaster" services – indicated that the role was simply one of receiving and paying out sums of money. There could be no doubt that the Respondent had provided banking facilities to PAG through the use of her client account. The Tribunal was satisfied to the required standard that this allegation had been proved on the evidence and on the Respondent's admission.

187. **Allegation 1.6- Withdrawn**

187.1 This allegation was withdrawn at the beginning of the hearing, so no findings were made.

188. **Allegation 1.7 - Failed to carry out bank reconciliations, in breach of Rule 29.12 of the AR 2011.**

188.1 This allegation was admitted by the Respondent.

188.2 The evidence was clear that, whilst the Respondent had carried out reconciliations in respect of her sterling client account, she had not carried out reconciliations of the Euro or dollar accounts. Those were accounts in which significant sums were lodged.

188.3 The Respondent told the Tribunal that she did not know it was necessary to reconcile the non-sterling accounts; she told the Tribunal that the Firm's accountants had informed Wendy, the office manager, that it was not necessary to reconcile these accounts. The Respondent told the Tribunal that all of the underlying records had been kept. The Tribunal noted that in the Respondent's client confirmation letters in the autumn of 2012, and in subsequent correspondence with investors, she had referred to the SRA's strict rules on dealing with client monies. The Respondent had displayed knowledge of the Accounts Rules but had failed to realise that it was

necessary or appropriate to carry out reconciliations in respect of accounts in which large sums of money were held.

188.4 The Tribunal was satisfied to the required standard that this allegation had been proved, on the evidence and on the Respondent's admission.

189. **Allegation 1.8 - Failed to notify the SRA promptly of the Firm's serious financial difficulty, in breach of Outcome 10.3 of the SRA Code of Conduct 2011 ("the Code").**

189.1 This allegation was denied by the Respondent.

189.2 As noted above, particularly at paragraphs 120 to 126 above, the Tribunal found that the Firm was experiencing significant cashflow difficulties in the summer of 2012, largely due to AF's failure to pay a bill or bills of around £79,000.

189.3 The Tribunal had to consider whether the Firm was in "serious financial difficulty" such that the requirement to notify the Applicant was triggered.

189.4 The Tribunal noted that Outcome O(10.3) stated:

> "… you (must) notify the SRA promptly of any material changes to relevant information about you including serious financial difficulty…"

The Tribunal considered whether the Code provided any definition of "serious financial difficulty" and noted that Indicative Behaviour ("IB") 10.3 included as indicators of serious financial difficulty "inability to pay your professional indemnity insurance premium, or rent or salaries, or breach of bank covenants" and that IB 10.4 referred to a requirement to notify the SRA promptly,

> "… when you become aware that your business may not be financially viable to continue trading as a going concern, for example because of difficult trading conditions, poor cashflow, increasing overheads, loss of managers or employees and/or loss of sources of revenue".

189.5 The Tribunal noted that the Respondent had paid her PII premium shortly after receipt of funds from LE. It also noted that she had not made mortgage payments for several months and that either staff salaries had not been paid, or she had borrowed from her husband to pay those salaries during the summer of 2012. The Tribunal noted that the Respondent had been undergoing a period in which cashflow was poor. However, the Respondent had given evidence that she had made arrangements with various creditors to defer payment. There was no indication that the bank or the PII insurers had threatened any action (e.g. possession proceedings or to withhold insurance cover). There had been no threat to take Court proceedings against the Respondent due to late payment of various obligations. There was no evidence that the Respondent had "become aware" that the business may not be able to continue trading; indeed, her evidence was that at the time she had had the resources to continue. There was no evidence on behalf of the Applicant to gainsay the Respondent's evidence.

189.6 In all of these circumstances, the Tribunal was not satisfied that the allegation had been proved to the required standard. It was not entirely clear what level of "serious financial difficulty" should be reported, and although the IB's referred to some example situations, the Respondent had not been proved to fall into any of the situations covered.

190. **Allegation 1.9 - Took unfair advantage of third parties, namely the customers of Provartis AG, in breach of Outcome 11.1 of the Code by making false representations to members of the public and using their money without their authority, and contrary to those representations.**

190.1 The Respondent did not admit this allegation, and contended that it was an allegation which was a duplication as, it was said, the allegation duplicated allegation 1.3.

190.2 The Applicant's position was that whilst the factual matters relied on were the same as for allegations 1.1, 1.2 and 1.3, allegation 1.3 could be proved if the Respondent had been incompetent, whereas to prove an allegation of taking unfair advantage it would be necessary to prove "an element of consciously taking unfair advantage" (SRA v Anderson Solicitors [2013] EWHC 4021, paragraph 67).

190.3 As already noted, the Tribunal was satisfied that the Respondent had made false representations to "members of the public" (in this case, the PAG investors) and had used their money without their authority and contrary to the representations made to the investors.

190.4 The Tribunal found that the Respondent had taken unfair advantage of the investors as she had consciously reassured them that their money was safe, when she was aware that PAG intended to use their money for purposes other than payment into a DB account and that the investors had no idea their money would be so used.

190.5 The Tribunal did not find that the Respondent had taken unfair advantage of the investors for her own, direct, benefit. However, she had actively and consciously made representations which allowed her client, PAG, to take advantage of the investors. This had the indirect benefit of allowing the Respondent to receive significant costs in relation to the PAG matters.

190.6 The Tribunal was satisfied to the required standard that this allegation had been proved.

191. **Allegation 1.10 - Allegations 1.1, 1.2, 1.3 and 1.9 were made on the basis that the Respondent acted dishonestly, but it would be open to the Tribunal to find the allegations proven without finding dishonesty.**

191.1 The Respondent denied each and every allegation of dishonesty.

191.2 As accepted by the parties, the test to be applied in considering dishonesty was that set out in Twinsectra v Yardley [2002] UKHL 12 ("Twinsectra"), as applied to disciplinary proceedings by Bultitude v Law Society [2004] EWCA Civ 1853("Bultitude") and Bryant v Law Society [2007] EWHC 3043 ("Bryant"). As per Lord Hoffman at paragraph 27 of Twinsectra,

> "… there is a standard which combines an objective 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."

It was this "combined test" which was approved by the courts, and applied by the Tribunal.

191.3 The Tribunal considered each of allegations 1.1, 1.2, 1.3 and 1.9 and considered whether the Respondent's conduct in respect of each or any of those allegations was dishonest. The Tribunal noted that there was no suggestion that the Respondent's capacity to distinguish between right and wrong had been impaired by mental or other illness.

Allegation 1.1

191.4 This allegation contained a number of sub-divisions, or individual items and each was considered in turn.

191.5 As noted above, in relation to allegation 1.1.1, the Tribunal found that in writing the letter which appeared to confirm the "DB leveraged account", when she had not seen any document evidencing that there was (or would be) such an account, the Respondent had lacked integrity. She had failed to carry out any checks into whether DB were prepared to create such an account, and in that regard had behaved recklessly. The Tribunal did not accept the Respondent's explanation that she had simply been repeating back to the client the instructions she had been given; the only reasonable reading of the letter was that the Respondent herself knew about the account.

191.6 The letter was, therefore, misleading and in writing it the Respondent had paid no attention to the accuracy of what she wrote. However, the Respondent had told the Tribunal that she believed that the leveraged account would exist. Whilst there was no independent evidence to support that belief, the Tribunal accepted that in writing the letter when she did, the Respondent had believed it to be true. Of course, the Respondent said it was true because she was simply repeating instructions she had been given. The correct interpretation of the words used in the letter still allowed for the possibility that, as the Respondent believed her clients when they told her there would a DB leveraged account, she had believed her letter to be true. In these circumstances, whilst writing such a letter without having a good basis for writing in those terms could well be objectively dishonest, it was not possible for the Applicant to prove to the required standard that the Respondent realised that in writing in those terms she was being dishonest by the ordinary standards of reasonable and honest people. This part of the allegation, therefore, was not proved.

191.7 With regard to allegation 1.1.2, the Respondent had made false representations to the PAG investors that if they paid their money to the Firm, it would be sent to DB/Commerzbank. In particular, the representation was that all and not simply part of the money would be sent into an account with DB/Commerzbank. At the time the Respondent made the representations – and in particular by the time the client

confirmation letters were prepared in respect of KNO/Mr Timmons, FF/Mr Presley and Mr Lewis – she was well aware that PAG intended she should pay away up to 90% of the investors' money and, indeed, she had begun to do so as soon as funds were received from LE. Whilst the Respondent may have believed that some of the money entrusted to her would be passed into a DB or other account, she knew at the time of making the representations as to the safety of the investors' money that a large part of the funds would be disbursed.

191.8 The Tribunal found that in making representations to the PAG investors that their funds would be safe in her client account, when she knew and intended that a significant part of the funds would be disbursed other than into a DB (or other) account, the Respondent's conduct was dishonest by the ordinary standards of reasonable and honest people. Further, the Respondent knew what she had said to the investors, and what her client was instructing her to do and that the two were not compatible. In disbursing money other than to DB/another account in these circumstances, the Respondent realised that her conduct was dishonest by the ordinary standards of reasonable and honest people. This part of the allegation of dishonesty had been proved.

191.9 With regard to allegation 1.1.3, the Tribunal had found that the Respondent had lacked integrity in paying out monies, including into her own office account, in breach of the representations made to investors. The Tribunal found that, in making those payments when she was aware of the representations made and that the payments were contrary to the representations, the Respondent was dishonest by the ordinary standards of reasonable and honest people. Further, the Respondent was aware that making payments of which the investors were unaware in breach of the representations made to them, was conduct which was dishonest by the same standards.

191.10 With regard to allegation 1.1.4, the Tribunal had determined that the Respondent lacked integrity in making false statements to Mr Timmons and Mr Presley that their money was still in her client account when a significant proportion of their money had been disbursed to third parties and to her own office account. The Tribunal determined that in making these representations, when she knew what was actually in her client account and what had been disbursed, the Respondent was dishonest by the ordinary standards of reasonable and honest people. Further, the Respondent had realised that making such statements was dishonest by those same standards; absent any mental impairment, it would not be possible for a solicitor not to realise that saying something they knew to be untrue was dishonest.

191.11 Allegation 1.1.5 was in the nature of a "background" allegation. The Respondent should have paid attention to the warning card on fraudulent financial arrangements, of which she was aware, but failed to do so. This was despite the unusual nature of the instructions she was given and that she was aware of the warning card. Such conduct clearly lacked integrity. The Respondent clearly should not have accepted the instructions from PAG, or should have terminated them promptly. There were significant warning signs present, not least the suggestion that returns of 40% per month could be achieved, with no risk to the capital and the fact that the individuals giving instructions for PAG purported to be wealthy but had a poor record of company directorships in the UK. The Tribunal was satisfied that the Respondent had

lacked integrity and had been reckless in taking instructions from PAG. However, as the Tribunal accepted that the Respondent had (oddly) believed what she was told by AF, PU and MB, her decision to act for them (and continue acting for a period of about 6 months) would not be seen as dishonest by the ordinary standards of reasonable and honest people. Even if it were, the Respondent's belief in the relevant individuals meant that she did not realise she was acting in an improper way.

Allegation 1.2

191.12 The Tribunal had found that in making the false representations to investors, on the instructions of her client, the Respondent had allowed her independence to be compromised. Indeed, if the Respondent had acted with proper independence and detachment, she would not have written as she did, particularly with regard to the second and subsequent client confirmation letters, which were tailored to address the particular concerns of each potential investor. The allegation also covered the Respondent's conduct in writing as she did to Mr Timmons and Mr Presley, in response to their queries.

191.13 The Tribunal found that in writing as she did to the investors, on instructions and when she knew the contents of her correspondence was untrue, the Respondent acted dishonestly by the ordinary standards of reasonable and honest people. Further, the Respondent realised that her conduct was dishonest by those same standards. The Respondent was aware of her professional duty not to mislead third parties and knew that writing in a misleading and untrue way was dishonest.

Allegation 1.3

191.14 The Tribunal had found that the Respondent made false representations to the PAG investors and used their money without their authority, and so had acted in a way which failed to maintain the trust the public placed in her/the provision of legal services.

191.15 The Tribunal found that in making representations which were false, and which she knew to be false and then using the investors' money without their knowledge or authority, the Respondent was clearly dishonest by the ordinary standards of reasonable and honest people. Further, it was clear that the Respondent knew that acting in this way was dishonest by those same standards.

Allegation 1.9

191.16 The misconduct considered in respect of allegation 1.9 arose from the same factual matters as allegation 1.3, and from the overall circumstances in which the Respondent acted for PAG. The Tribunal was satisfied that there had been an element of consciously taking unfair advantage, in that the Respondent was aware that the investors did not know what she knew about PAG's intentions to use the investors' money.

191.17 The Tribunal determined that in making false representations and using the investors' money without their authority (or knowledge) the Respondent had acted dishonestly by the ordinary standards of reasonable and honest people. Further, there could be no

doubt that the Respondent knew that in making those representations, misusing the investors' money and thereby taking unfair advantage of them, her conduct was dishonest by those same standards.

General

191.18 As already noted, the Tribunal took into account the many impressive references in writing and the personal testimonials of Mr Beanland, Mr Horton and Mr Dittmar; the Tribunal found that the Respondent had no underlying predisposition to dishonesty. The Tribunal could also accept that the Respondent was not "streetwise", and thus was vulnerable to exploitation by the unscrupulous. However, naivety did not mean a person was always honest. The Tribunal noted that the Respondent had lots of experience as a company/commercial solicitor, in which field she was regarded as competent. She had had some experience of international corporate work in the course of her career and the testimonials confirmed that she was a diligent and effective lawyer. The Tribunal could not accept the Respondent's evidence about how she had understood the letters she had written; her explanations were simply incredible in the light of her precision with language, which was the bedrock of her career in the type of work with which she had been involved.

191.19 The Tribunal had not found that the Respondent was motivated by the pursuit of money but noted, of course, that dishonesty does not only occur in order to make a profit. Further, the Tribunal did not consider that the Respondent was herself involved in any of the fraudulent schemes; rather, her conduct had facilitated those frauds. The Respondent had blindly trusted those instructing her, when those individuals were not the men of substance they purported to be and proper enquiry or the normal degree of scepticism to be shown by members of the profession would have revealed this.

191.20 The Tribunal noted that, as matters progressed, there had been numerous warning signs to show this was a suspicious matter. Whilst the Respondent had denied that she had had concerns about her instructions – and had been particularly vehement in denying that she had indicated to the FI Officer that she had been worried – the Tribunal noted and found that by the time Mr Lewis was involved, the Respondent must have had concerns. Although she had taken her own costs, she had not disbursed the remainder of the money received from Mr Lewis; it was notable that Mr Lewis had stated in his letter to the Respondent on 31 October 2012 that his money was to be used "solely" for the opening of his account with DB or another. The Tribunal found that by this stage, if not before, the Respondent had concerns about the propriety of her actions. In any event, she had been aware at the time of each and every one of the dishonest actions noted above that she was being dishonest even if she did not, at the time, recognise that the whole scheme was improper.

191.21 The Tribunal was satisfied to the required standard that the Respondent's conduct was dishonest with regard to allegations 1.1, 1.2, 1.3 and 1.9 but in relation to allegation 1.1 the Respondent was not dishonest in relation to 1.1.1 and 1.1.5; in those two instances her conduct had lacked integrity and/or been reckless. The Tribunal had, of course, found the Respondent to lack integrity in respect of all matters under 1.1; even

if dishonesty had not been proved, the lack of integrity displayed was extremely serious.

Previous Disciplinary Matters

192. There were no previous matters in which findings had been made against the Respondent.

Mitigation

193. Mr Treverton-Jones offered mitigation on behalf of the Respondent, in the light of the findings of dishonesty and other findings made against the Respondent.

194. Mr Treverton-Jones acknowledged that where there was a finding of dishonesty, the usual sanction would be to strike a solicitor off the Roll, unless there were exceptional circumstances.

195. Mr Treverton-Jones submitted that in this instance, the dishonesty had involved just one client (albeit acting through various individuals), over a comparatively short period of time. The Respondent had been groomed, exploited and used by her client(s). It was submitted that in these circumstances, which the Tribunal may view as exceptional, the Tribunal could take the view that there was no need to exclude the Respondent from the profession permanently. Mr Treverton-Jones invited the Tribunal instead to consider imposing a substantial suspension, with the imposition of conditions on the Respondent's practice thereafter.

Sanction

196. The Tribunal had regard to its Guidance Note on Sanction (December 2014) and to all of the circumstances of the case, including the submissions of Mr Treverton-Jones on behalf of the Respondent.

197. The Tribunal noted that its primary function in sanctioning members of the profession was to safeguard the reputation of the profession as one whose members could be trusted to the ends of the earth. The case law had made it clear that, save in exceptional circumstances, where there was a finding of dishonesty the usual and proportionate sanction was that a Respondent solicitor should be struck off the Roll of Solicitors.

198. The Tribunal had regard to the many impressive references provided on behalf of the Respondent, including the testimony given in person by Mr Beanland, Mr Horton and Mr Dittmar. There was no doubt that the Respondent had been well-regarded in the profession and personally until the events dealt with in this case.

199. The Tribunal also noted and accepted that the Respondent had been duped by a group of fraudsters. Even Mr Dittmar, an experienced businessman, had been taken in by AF. Sadly for the profession, this situation was not exceptional; there were a number of instances in which solicitors of various degrees of experience had been taken in by fraudsters of varying degrees of sophistication. It was partly because there was a risk of such exploitation of solicitors that the Law Society and/or SRA had issued warning cards to the profession. Further, although the dishonesty had occurred in relation to

only one client/group of linked clients, the dishonest letters and emails had been sent to several different individuals, over a period of at least a month, during which the Respondent had the opportunity to consider the terms in which she was writing letters which would be passed to and would be read by the PAG investors.

200. The Tribunal was concerned that the Respondent did not appear, even at this late stage, to show insight into her own misconduct and the impact her conduct would have on the perception of the profession by the public. Rather, the Respondent had appeared to feel that she was the victim in this matter; to an extent, that was true as she had been duped but it was the responsibility of solicitors to be alert to any attempts by fraudsters to use the good standing of the profession to facilitate a fraud.

201. The Tribunal considered that even without the finding of dishonesty, the totality of the Respondent's misconduct – the lack of integrity and the fact that the Respondent had facilitated a fraud, albeit she may not have appreciated at the time that this is what she was doing – was so serious that a striking off order would have been appropriate.

202. The Tribunal considered that there were no exceptional circumstances in this case. The only proportionate and appropriate sanction was an order to strike the Respondent off the Roll.

Costs

Applicant's Submissions

203. On behalf of the Applicant, Mr Tabachnik made an application that the Respondent should pay the Applicant's costs of these proceedings, and submitted a costs schedule in the total sum of £78,334.26. This included the Applicant's forensic investigation costs of £16,525.80 and counsel's fees of £18,300 (plus VAT) as well as the fees of the solicitors instructed by the Applicant. The hearing had lasted for the three days which had been anticipated when the costs schedule was drawn. The base costs, net of VAT (which the Applicant could not reclaim) were approximately £68,000.

204. Mr Tabachnik submitted that the costs were reasonable and proportionate to the issues in the case. It had been necessary to collate and analyse a considerable volume of material; this necessarily had an impact on the costs claimed.

205. Mr Tabachnik submitted that this was not a case in which an order that costs should not be enforced without the further permission of the Tribunal would be appropriate. Such orders, in practice, were equivalent to making no order for costs. Mr Tabachnik submitted that the Applicant should not be disadvantaged as compared to other creditors of the Respondent. Whilst it was accepted that the Respondent was not of substantial means, it appeared that she had equity in the family home of something of the order of £132,000; this may increase if property values were to increase in time. Although there was no current equity in the office premises, there was the possibility that property values would rise and/or that the premises could be let to generate an income. Mr Tabachnik submitted that the Applicant had had to spend the profession's money to bring this case, which had been successfully prosecuted, and that it would be reasonable to allow the Applicant to enforce any order for costs, even if only to the extent of being able to register a charge over the Respondent's property.

Respondent's Submissions

206. Mr Treverton-Jones referred to the Respondent's statement of her financial position and submitted that in this case an order that the costs should not be enforced without the further permission of the Tribunal would be appropriate. Whilst the Respondent had equity in her family home, there was no equity in the office premises which she owned in her sole name. The Respondent had two school age children. She and her husband managed their finances separately. The Respondent had some pension provision which would come into effect in due course. After a period of unemployment, the Respondent was due to begin some temporary work (until December 2015) with Buckinghamshire County Council, in an administrative role, on a salary equivalent to £18,000 per annum.

207. Mr Treverton-Jones informed the Tribunal that the Respondent was being sued for various losses by LE, FF and others, for a total of over £2.5 million. Her professional indemnity insurers – whose representative had been present in court throughout the hearing – had declined to indemnify the Respondent on the basis of the alleged dishonesty in this matter. The Respondent did not have the assets to meet such claims.

208. Mr Treverton-Jones submitted that whilst the Tribunal could make such order as to costs as it considered appropriate, the case of Brett v Solicitors Regulation Authority [2014] EWHC 2974 (Admin) made it clear that the costs should be proportionate, in particular in relation to counsel's fees. Mr Treverton-Jones submitted that the appropriate order was for the Respondent to pay a reasonable part of the costs claimed, but those costs should not be enforceable without the Tribunal's further permission. Mr Treverton-Jones further submitted that if the Respondent were to be struck off or suspended, that would have an impact on her financial position and earnings.

The Tribunal's Decision

209. The Tribunal considered carefully the submissions of the parties, the schedule of costs and the Respondent's statement of means.

210. The Tribunal determined that it was appropriate to make an order for costs against the Respondent. The case had been brought properly and successfully and there was no reason, in principle, that the profession rather than the Respondent should pay or contribute to the costs. Although the Applicant had failed to prove one allegation the Tribunal did not consider there was any reason to reduce the costs; the most serious allegations had been proved, even if what was said to be the Respondent's motivation had not been.

211. The Tribunal considered that, overall, the costs claimed by the Applicant were not disproportionate. The Tribunal noted that Mr Treverton-Jones had not highlighted any costs which he had identified as excessive. The Tribunal determined that the rates claimed for work by the solicitors, counsel's fees and the forensic investigation costs were reasonable. However, it appeared that there had been some duplication of work and/or time. A "core bundle" had been prepared which the parties had then decided not to use at the hearing. The work done on documents appeared high, in

particular 41.8 hours spent by a partner in reviewing papers, with a further 20 hours in preparing for the hearing. The former in particular appeared high in a situation where 24.5 hours was also spent by a trainee in reviewing the papers.

212. Having taken into account the work done and what was reasonable in this case, the Tribunal assessed that the reasonable and proportionate costs of the case should be assessed in the sum of £70,000, inclusive of VAT and disbursements.

213. The Tribunal considered whether the costs should be further reduced due to the Respondent's financial position and/or whether the costs order should not be enforceable.

214. The Tribunal noted that the Respondent was not wealthy. However, she had some assets in which she held some equity and/or in which there may be equity in future. The current assets were sufficient to meet the extent of the Tribunal's costs order. In those circumstances, there was no reason to place the Applicant at a disadvantage where the Respondent was also being pursued by other creditors. The Tribunal would, of course, expect the Applicant to proceed in a reasonable and proportionate manner. For example, it would be reasonable to obtain a charge over the Respondent's equity in her home but it may not be desirable to seek to enforce that by obtaining an order for sale until the Respondent's children were older.

215. The Tribunal determined that it was appropriate to order the Respondent to pay the Applicant's costs, summarily assessed at £70,000.

Statement of Full Order

216. The Tribunal Ordered that the Respondent, PASCALE EDITH MARIE-ANNE WOOD-ATKINS solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £70,000.00.

Dated this 18th day of August 2015
On behalf of the Tribunal

E. Nally
Chairman