SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 | Case No. 11463-2016

BETWEEN:

SOLICITORS REGULATION AUTHORITY | Applicant

and

JOHN ROBERT BROOKES | Respondent

Before:

Miss T. Cullen (in the chair)
Mr P. Lewis
Mrs V. Murray-Chandra

Date of Hearing: 15 July 2016

Appearances

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

The Respondent did not attend and was not represented.

JUDGMENT

Allegations

1. The allegations against the Respondent made by the Solicitors Regulation Authority ("SRA") were that, whilst a solicitor at the firm Capsticks Solicitors LLP ("the Firm"):

1.1 between 18 August 2012 and 2 February 2014, he submitted ten expense claims to the Firm totalling £1,185.14 for reimbursement of business related expenses which he knew to be false in breach of Principles 2 and 6 of the SRA Principles 2011 ("the Principles");

1.2 the ten claims submitted between 18 August 2013 and 2 February 2014 as business related disbursements included three claims on 13 December 2013 totalling £398.97 which were a personal expense in respect of a birthday celebration for his wife's 50th birthday in breach of Principles 2 and 6 of the Principles;

1.3 in a meeting with his Head of Department and the Firm's Chief Operating Officer on 8 April 2014 he misrepresented to them that the client entertainment meetings for which he had submitted expense claims had taken place, subsequently on 10 April 2014 he admitted that these statements were not in fact true in breach of Principles 2 and 6 of the Principles;

1.4 between 27 November 2013 and 14 March 2014, he submitted expenses claims which he was not entitled to claim which were charged to the Firm's clients in breach of Principles 2, 4, 6 and 10 of the Principles;

1.5 following his dismissal from the Firm on 16 April 2014, despite arrangements being made by the Firm for the return of the Firm's laptop which was in his possession, he failed to return the laptop in breach of Principle 6 of the Principles.

2. Dishonesty was alleged in relation to allegations 1.1 – 1.4, however dishonesty was not an essential ingredient to sustain those allegations.

Documents

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

- Notice of Application dated 29 December 2015
- Rule 5 Statement and Exhibit "DN1" dated 29 December 2015
- Applicant's Schedule of Costs dated 1 July 2016

Preliminary Matter

4. The Respondent did not attend the hearing and was not represented. The SRA had written to the Respondent at his last known address with notification of the hearing date on 16 June 2016 and 1 July 2016. Those letters had not been returned. The Tribunal had written to the Respondent on 12 May 2016 notifying him of the hearing date. That letter was sent by recorded delivery on 12 May 2016 and was signed for on 13 May 2016.

5. Mr Bullock applied for the case to proceed in the Respondent's absence, pursuant to Rule 16(2) of the Solicitors (Disciplinary proceedings) Rules 2007 ("SDPR"), which provided that:

> "If the Tribunal is satisfied that notice of the hearing was served on the Respondent in accordance with these Rules, the Tribunal shall have the power to hear and determine an application notwithstanding that the Respondent fails to attend in person or is not represented at the hearing."

6. Mr Bullock submitted that the Respondent would suffer no prejudice if the application were to be heard in his absence, as the Tribunal had the power to order a rehearing under the provisions contained in Rule 19 SDPR.

7. Mr Bullock referred the Tribunal to the cases of Adeogba v The General Medical Council [2016] EWCA Civ. 162("Adeogba") and Davies v Health Care Professions Council [2016] EWHC 1593 (Admin) ("Davies"), which the Tribunal must have in mind when considering whether to proceed in the absence of the unrepresented Respondent, and submitted that all reasonable efforts had been made to serve the Respondent with notice of the hearing.

8. The Tribunal saw the letter it had sent dated 12 May 2016 to the Respondent which notified him of the hearing date; that letter had not been returned; indeed it had been signed for on 13 May 2016. The Tribunal noted that in correspondence dated 16 June and 1 July 2016 sent to the Respondent by the Applicant the hearing date was mentioned.

9. The Tribunal determined that the Respondent had been properly served with the proceedings and notice of this hearing. He had not made any contact with the Applicant or the Tribunal concerning this matter. The Tribunal had regard to the principles in Adeogba, Davies, R v Hayward and others [2001] EWCA Crim 168 ("Hayward"), R v Jones [2002] UKHL 5 ("Jones") and Tait v Royal College of Veterinary Surgeons [2003] WL 1822941 ("Tait"). The Tribunal was satisfied that in this instance the Respondent had chosen voluntarily to absent himself from the hearing. It was in the public interest and in the interests of justice that this case should be heard and determined as promptly as possible, particularly as the allegations included an allegation of dishonesty. There was nothing to indicate that the Respondent would attend or engage with the proceedings if the case were adjourned. In light of these circumstances, it was just to proceed with the case, notwithstanding the Respondent's absence.

Factual Background

10. The Respondent was born in 1961 and admitted to the Roll of Solicitors in August 2010. He remained on the Roll of Solicitors.

11. On 11 April 2014, the Firm contacted its Regulatory Manager at the SRA to report that concerns had been identified by the Firm's Finance Department in respect of a number of expenses submitted by the Respondent and an internal investigation had commenced. The Firm provided a copy of its Investigation Report to its Regulatory Manager on 22 April 2014 ("the Firm's Report"). An inspection of the books of

account was authorised which culminated in a Forensic Investigation Report dated 15 May 2015 ("the FI Report").

Allegation 1.1

12. The Firm's internal investigation considered 14 business entertainment expenses claims by the Respondent from the period 18 August 2013 to 6 February 2014. During the course of the Firm's investigation the Respondent admitted that nine of the expenses claims were not legitimate.

13. On 8 April 2014, the Respondent's Head of Department (MH) and the Firm's Chief Operating Officer (NM) held a meeting with the Respondent. It was recorded by MH that the Respondent was adamant that all the client entertainment had taken place, but that some of the dates were incorrect, and on a number of occasions the receipts attached to the claims were the wrong ones.

14. A further meeting was held between the Respondent, MH and NM on 10 April 2014. In his report, MH recorded that the Respondent admitted making nine false claims, using receipts that belonged either to him or his wife for drinks and/or dinner which they had had, unconnected to work.

15. During his interview with a Forensic Investigation Officer ("the FI Officer") of 1 April 2015, the Respondent admitted that a further claim, namely that made for expenses incurred on 10 November 2013, was also not a legitimate claim.

Allegation 1.2

16. In the meeting conducted with the Respondent on 10 April 2014, the Respondent admitted to MH and NM that the three claims on 13 December 2013 with a total value of £398.97 were in fact for drinks and dinner which the Respondent had with his wife and some friends to celebrate his wife's 50th birthday. This was reported to the SRA in the Firm's Report.

Allegation 1.3

17. At the meeting on 8 April 2014 the Respondent confirmed that all the client entertainment had taken place. He explained that some of the dates were wrong and that on a number of occasions the receipts attached to he claims were the wrong ones. He accepted poor practice in that respect but otherwise denied any wrongdoing.

18. At the meeting on 10 April 2014, the Respondent admitted making nine false expense claims; this was reported by NH in the Firm's Report.

Allegation 1.4

19. In addition to the Firm's internal investigation into the Respondent's expenses claims for client entertainment, the Firm carried out a review of the travel expenses claims made by the Respondent. The Firm's Director of Finance undertook an analysis of the Respondent's expenditure from 1 February 2005, when he joined the Firm, to 31 March 2014. A number of questionable claims were identified, and it was decided

that the expenses claimed between February 2012 and February 2014 required further investigation. A sum of £9,634.61 that had been billed to clients by the Respondent during that time was identified; it was recommended that a decision should be made as to whether the Firm should refund all those clients, or just those where there had been substantial costs incurred.

20. The Firm decided that given the circumstances, and the time consuming nature of trying to establish which expenses had been properly incurred, the appropriate course of action was to refund all money claimed from clients in respect of the Respondent's expenses for the preceding 2 years.

21. Between May and July 2014, the Firm made refunds of £9,100.31 to 21 clients with a further payment of £426 being made on 25 March 2015.

22. In May 2014, NM carried out a further analysis of the travel claims submitted by the Respondent. This comprised of travel expenses submitted from 27 November 2013 to 14 March 2014. The FI Officer reviewed the information provided in a spreadsheet by NM and discussed this with the Respondent during the meeting on 1 April 2015.

Client LGT

23. The bill of costs raised in relation to this client included a charge for disbursements of £246.18 which was recorded as travel expenses submitted by the Respondent. The remainder of the claim was for three rail tickets, one dated 27 November 2013 for £5.00 issued at Clapham Junction, and two for £20.00 dated 28 November 2013 also issued at Clapham Junction.

24. The details were recorded as meeting travel expense re client and legacy team meetings. The expense claims voucher had been signed by the Respondent only. The accompanying receipts included an undated confirmation of a hotel booking for the Holiday Inn in Regents Park. The booking was for 5 December 2013 and was for one night's accommodation for two adults. The booking was in the Respondent's name and the cost of the accommodation was £201.10.

25. The Firm reviewed the file and confirmed that there was no reference to an overnight stay or an explanation for the booking on the file.

26. In his interview with the FI Officer, the Respondent stated that he had no memory of staying in the hotel. In relation to the two claims for £20.00 on 28 November 2013, he explained that one of the claims had been a duplication.

Client RFFT

27. The bill of costs raised in relation to this client for work completed up to 31 December 2013 included a disbursement of £15.80, which was recorded as travel expenses. A further bill raised for work completed up to 31 January 2014 included disbursements of £132.60, which were recorded as taxi fares of £17.00 and travel expenses of £115.60.

28. The first expenses claim voucher was undated. The claim was for £37.00, and was recorded as being incurred for travel to a client meeting. The accompanying receipts consisted of an undated taxi receipt for £17.00, and a debit/credit sales voucher dated 18 December 2013 marked as 'pay as you go' for £20.00.

29. The second expenses claim voucher was dated 10 January 2014 and was for £25.60. The details were recorded as "travel re client plus rep meeting". The claim consisted of two debit/credit sales vouchers for rail travel, one dated 5 December 2012 for £5.60, and the other dated 18 December 2013 for £20.00.

30. There were further expense claims in this matter amounting to £132.60. That sum was paid as petty cash to the Respondent on the understanding that he would provide travel receipts; the Respondent failed to provide the receipts.

31. A further expenses claim was submitted by the Respondent for the sum of £27.00 for "travel re meetings re transfer and consultation". The claim consisted of two debit/credit sales vouchers, one dated 5 December 2013 for £22.00 and the other dated 16 December 2013 for £5.00.

32. Having reviewed the file, the Firm confirmed that there was no evidence of any meetings on the dates that travel receipts had been submitted for which were 21 November 2013, and 5, 12, 16 and 18 December 2013. The file indicated that a meeting had been logged for 19 December 2013, but not travel claim expenses had been submitted by the Respondent for that date.

33. The Respondent's expenses claim in this matter had been for multiple tickets purchased on the same day:

    - Two for 5 December 2013; £5.60 and £22.00. The £22.00 related to two rail tickets.
    - Two for 18 December 2013 both for £20.00

34. The Respondent was unable to explain why he had purchased three tickets on 5 December 2013, or why there was no evidence on the file of client meetings on the dates for which travel expenses had been claimed.

35. A bill raised for work completed by 30 November 2013 included a claim for disbursements in respect of travel expenses in the sum of £65, however the bill did not contain any references to attendance upon the client.

36. In the spreadsheet produced by the Firm detailing the Respondent's expenses between 27 November 2013 and 14 March 2014 (which were charged to clients by the Firm) it was noted that twenty different Visa cards, and three different MasterCard had been used to pay for the items submitted as part of the expenses claims made, with only one Visa card having been used more than once. The Respondent was unable to provide any explanation for the twenty four cards used in relation to the expenses claimed. He told the FI Officer that it was possible that he had picked up the wrong receipts, but could not explain how he could have done so on twenty three occasions, and then matched them up to his expenses claims.

Allegation 1.5

37. Following the Respondent's dismissal, the Firm made arrangements for its laptop (which was in the Respondent's possession) to be collected by a courier who was delivering the Respondent's personal possessions that had been left at the Firm's premises. The delivery/collection had been agreed for 25 April 2014 at 10.30am.

38. On 25 April 2014, the Firm's HR department emailed NM to confirm that the laptop had not been returned. NM emailed the Respondent requesting details of how he intended to return the laptop. The Respondent responded the same day, explaining that his mother-in-law had failed to give the laptop to the courier, and that he was happy for the laptop to be picked up.

39. The Firm wrote to the Respondent on 4 and 25 June 2014 requesting the return of the laptop. By the time of the Respondent's meeting with the Applicant on 1 April 2015, he had still not returned the laptop. The Respondent eventually returned the laptop on 30 July 2015.

Witnesses

40. None.

Findings of Fact and Law

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

42. **Allegation 1.1 - between 18 August 2012 and 2 February 2014, submitted ten expense claims to the Firm totalling £1,185.14 for reimbursement of business related expenses which he knew to be false in breach of Principles 2 and 6 of the Principles.**

42.1 Mr Bullock submitted that the Respondent had made a number of claims for expenses that he knew were improper. The Applicant relied on the admissions made by the Respondent at his internal disciplinary hearing at the Firm, where on 10 April 2014, the Respondent was taken through the claims, and admitted that nine of the claims were false. The Applicant further relied on the Respondent's admission to the FI Officer, at his meeting of 1 April 2015, that in addition to the nine matters he had already accepted were false claims, a further claim for expenses on 10 November 2013 was also false.

42.2 The Tribunal determined that Respondent had, as alleged (and admitted both at his internal disciplinary hearing and his interview with the FI Officer), made a number of claims for business entertainment expenses that he was not entitled to claim. The Respondent accepted that "there were receipts that were not properly applied in relation to client entertainment". The Tribunal noted that the Respondent admitted a further improper claim during his meeting with the FI Officer, his having represented

to the Firm that that claim was legitimate. The Tribunal noted that the Respondent admitted ten improper claims to the value of £1,185.14.

42.3 In his letter of 7 August 2015 to the Applicant, the Respondent stated:

> "Given the statements that I have made in admitting that the expenses claims were incorrectly made and that I wrongly sought to recover expenses as a result, I cannot maintain that my actions were correct and it would be inappropriate for me to put the SRA to the time and expense of further investigation into this matter, when the actions I took were so clearly wrong."

42.4 Further:

> "…in responding to the allegations made…I acknowledge that [my] actions….have resulted in my failure to meet the principles of the SRA Principles 2011 and it would be wrong to seek to excuse those actions or to characterise them in a way that is justifiable or within the standards required."

42.5 The Tribunal determined that the Respondent had breached the Principles as alleged and admitted. No solicitor, acting with integrity, would submit claims for expenditure which they knew they were not entitled to claim. In acting in this way, the Respondent had both acted without integrity and failed to behave in a way that would maintain the trust the public placed in him as a solicitor and the provision of legal services. Members of the public would be appalled at the Respondent's conduct. Accordingly, the Tribunal found allegation 1.1 proved beyond doubt on the evidence and the Respondent's admission.

43. **Allegation 1.2 - the ten claims submitted between 18 August 2013 and 2 February 2014 as business related disbursements included three claims on 13 December 2013 totalling £398.97 which were a personal expense in respect of a birthday celebration for his wife's 50th birthday in breach of Principles 2 and 6 of the Principles.**

43.1 When initially asked about the expenses claimed for 13 December 2013, the Respondent claimed that the expenditure was a legitimate claim for business entertainment expenses. At the meeting on 10 April 2014, the Respondent admitted that the three claims made for that date were for drinks and dinner he had with his wife and his friends to celebrate his wife's 50th birthday.

43.2 The Tribunal had no hesitation in finding this matter proved beyond reasonable doubt on the evidence and the Respondent's admission. The Respondent's conduct clearly lacked integrity; no solicitor acting with integrity would seek to claim personal expenditure as business expenditure. Members of the public would be deeply concerned by the Respondent's conduct. Accordingly, the Tribunal found beyond reasonable doubt that the Respondent had breached the Principles as alleged and admitted.

44. **Allegation 1.3 - in a meeting with his Head of Department and the Firm's Chief Operating Officer on 8 April 2014 he misrepresented to them that the client entertainment meetings for which he had submitted expense claims had taken place, subsequently on 10 April 2014 he admitted that these statements were not in fact true in breach of Principles 2 and 6 of the Principles**

44.1 The Tribunal found it clear from the notes of the meeting on 8 April 2014, that the Respondent had denied any wrongdoing, and had represented that all the claims were legitimate and proper claims. At that meeting the Respondent accepted that there were a number of occasions where the wrong receipts may have been attached and that a number of the dates were incorrect, but was "adamant" that the business entertainment had taken place, and provided explanations as to the legitimacy of each claim.

44.2 At the meeting on 10 April 2014, the Respondent admitted that nine of the claims made were not legitimate business entertainment claims, but were in fact personal expenditure, including his wife's 50th birthday celebrations.

44.3 The Tribunal found that it was abundantly clear that on 8 April 2014, the Respondent had misrepresented to the Firm that the client entertainment meetings had taken place. A solicitor acting with integrity, having behaved in the way the Respondent had behaved, would have taken the opportunity at the meeting on 8 April 2014 to explain the full circumstances, and would not have sought to compound his conduct with further misrepresentation. The Respondent made no such admission at that meeting. His conduct in that regard clearly lacked integrity. The Respondent's actions were likely to cause the public to mistrust him and those who provide legal services. Accordingly, the Tribunal found allegation 1.3 proved beyond reasonable doubt.

45. **Allegation 1.4 - between 27 November 2013 and 14 March 2014, submitted expenses claims which he was not entitled to claim which were charged to the Firm's clients in breach of Principles 2, 4, 6 and 10 of the Principles.**

45.1 The Tribunal carefully examined the spreadsheet of travel expenses prepared by the Firm, and paid particular attention to the documentary evidence in the exemplified matters. The Tribunal noted that the Respondent had both charged for travel expenses to client meetings on dates when no such meeting took place, and had also charged for multiple tickets on the same date generally for journeys at or around the same time.

45.2 Having scrutinised the documentary evidence, the Tribunal determined that the claims could not have been submitted in error. There was no satisfactory explanation, and nor could there be, as to why a number of different cards had been used to purchase the Respondent's claimed expenditure. Nor was there any satisfactory explanation as to the booking of a hotel room in London. The room had been booked using the Respondent's mother-in-law's card. The Respondent did not offer, and the Tribunal did not find any proper justification for the Respondent claiming for the cost of the room that was billed to a London based client, whilst the Respondent also resided in London, and there being no record of any meeting on that day.

45.3 The improper expenses charged had in turn been charged to the clients. The Tribunal found beyond reasonable doubt that in claiming improper expenses and causing them to be charged to clients, the Respondent had failed to act in the best interests of each client in breach of Principle 4, and had failed to protect client monies and assets in breach of Principle 10. Further his actions lacked integrity, and damaged the trust in the profession in breach of Principles 2 and 6. Accordingly, the Tribunal found allegation 1.4 proved beyond reasonable doubt.

46. **Dishonesty**

46.1 The Applicant submitted that the Respondent's actions were dishonest in accordance with the test for dishonesty accepted in Bultitude v Law Society [2004] EWCA Civ 1853 as applying in the context of solicitors disciplinary proceedings, namely the combined test laid down in Twinsectra v Yardley and Others [2002] UKHL 12 ("Twinsectra"): the person has acted dishonestly by the ordinary standards of reasonable and honest people and realised that by those standards he or she was acting dishonestly.

46.2 In submitting ten false claims, between 18 August 2013 and 2 February 2014, totalling £1,168.14 for reimbursement of business expenses incurred that he knew to be false, the Respondent acted dishonestly by the ordinary standards of reasonable and honest people.

46.3 In submitting an expense claim to the Firm as a business disbursement which included his personal expenses for the birthday celebration of his wife in the sum of £398.97, the Respondent had acted dishonestly.

46.4 By misrepresenting to MH and NM on 8 April 2014 that the entertainment meetings for which he had submitted claims had taken place, the Respondent acted dishonestly.

46.5 In submitting numerous incorrect receipts for travel expenses and charging them wrongly to his clients, the Respondent had acted dishonestly

46.6 In submitting personal expenses as business disbursements and submitting false travel expenses with wrong receipts the Respondent acted dishonestly.

46.7 Further, the Respondent knew his conduct was dishonest for the following reasons:

- Despite knowing that some of the meetings for the expenses claims he submitted had not taken place, the Respondent insisted at his meeting with NM and MH on 8 April 2014 that the entertainment meetings for the expenses claimed had taken place. It was not until the further meeting on 10 April 2014 that he admitted making nine false claims;

- Despite insisting he had only made nine false claims, the Respondent admitted to the FI Officer in the meeting on 1 April 2015, that the claim submitted for 10 November 2013 was also false;

- The Respondent admitted that within the nine false claims, he had submitted a claim for personal expenses relating to his wife's birthday celebration;

- He admitted to the FI Officer that he had made false claims, and that his actions were dishonest;

- He admitted that he claimed travel expenses using wrong receipts.

46.8 The Applicant submitted that the Respondent's dishonest conduct was not an isolated act, but rather it represented a prolonged course of conduct over the period from 18 August 2013 to 2 February 2014. Furthermore, his conduct could not have been committed mistakenly; submitting incorrect receipts ostensibly to substantiate legitimate claims for client entertainment events, and marrying up travel expenses with individual client matters required conscious forethought and planning prior to the submission of the claims.

46.9 The Tribunal determined that reasonable and honest people applying ordinary standards would find that the Respondent, in claiming expenses that he was not entitled to claim had acted dishonestly. Further, when not admitting that the entertainment expenses claims were not legitimate in his meeting with the Firm on 8 April 2015, the Respondent was also acting dishonestly. Accordingly, the Tribunal found the objective element of the Twinsectra test satisfied.

46.10 The Tribunal determined that the Respondent knew, by those standards he was acting dishonestly. The Respondent had accepted that he had acted wrongly. Further, during his interview on 1 April 2015 with the FI Officer, the Respondent, when asked if he regarded his conduct as dishonest stated "well, I can't think of another word for it….I would have to admit to that, and that's a dreadful thing to have to say about your own conduct."

46.11 The Tribunal considered that it was inconceivable that a solicitor of the Respondent's age, with his experience, would not realise that his conduct was dishonest. His attempt, on 8 April 2014, to conceal his conduct was further evidence of his knowledge of his dishonest conduct.

46.12 The Tribunal found, on the facts of the case, and on the Respondent's admission that he knew that he had acted dishonestly, and thus the subjective element of the Twinsectra test was also satisfied. Accordingly, the Tribunal found beyond reasonable doubt that the Respondent's conduct was dishonest as alleged.

47. **Allegation 1.5 - following his dismissal from the Firm on 16 April 2014, despite arrangements being made by the Firm for the return of the Firm's laptop which was in his possession, he failed to return the laptop in breach of Principle 6 of the Principles.**

47.1 Mr Bullock submitted that in failing to return the laptop from the time of his dismissal in April 2014, to his eventual return on the laptop on 30 July 2015, the Respondent had failed to act with probity in relation to the Firm's property. This was a reflection on him as a solicitor, and would affect the public's perception of solicitors and those who provide legal services; the public would expect the Respondent to have complied with the arrangements made for the return of the laptop.

47.2 The Tribunal noted that the allegation was failing to return the laptop, and not one of unreasonably delaying the return of the laptop. It was the Applicant's case that the laptop was returned, albeit belatedly, on 30 July 2015. In the circumstances, the Applicant had not made out its case, as it accepted that the laptop had been returned; the allegation was one of a failure to return. The Tribunal did not find the allegation proved, and accordingly allegation 1.5 was dismissed.

Previous Disciplinary Matters

48. None.

Mitigation

49. In his letter to the Applicant of 7 August 2015, the Respondent accepted responsibility for "wrongly making the expense claims". He explained that at the time that the actions were taken, he was trying to address a number of personal issues including the breakdown of his marriage. He accepted that such issues did not excuse the actions that he took and nor should they have affected his professional conduct or result in his taking any action which would result in his failing to meet the principles required for the profession.

50. He stated that:

> "…my actions resulted in such significant and detrimental results. My marriage that I was trying to save did fail, and in addition to losing my job (deservedly) I also [lost] the trust of professional friends and colleagues (also deservedly). I also lost my home and put at risk the only remaining relationship of significant which I have….."
>
> …………
>
> "I also recognise that actions such as those I have taken result in consequences….I hope that my acknowledgement of the failings in my conduct previously, and my commitment to meeting the required standard of conduct in the future will be relevant and can be taken into account. I acknowledge that my actions have caused extreme concern…"
>
> …………
>
> "I apologise again to those whose confidence I have lost."

Sanction

51. The Tribunal had regard to the Guidance Note on Sanctions (4th Edition-December 2015). The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction, it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances.

52. The Tribunal firstly considered the seriousness of the Respondent's proven conduct. The Tribunal found the Respondent to be completely culpable for the breaches; the misconduct having arisen as a direct result of his sole actions. The Respondent had clearly been motivated by financial gain. The Respondent was an experienced solicitor, who had taken dishonest steps, and who when first questioned about his claims, had sought to deny any impropriety. The Respondent's conduct had also involved a degree of planning; he had obtained receipts and then billed them to a number of client files. The Tribunal found that in acting in the way that he did, the Respondent had caused harm to the profession and the public; as per Coulson J in Solicitors Regulation Authority v Sharma [2010] EWHC 2022 Admin ("Sharma"):

> "34. there is harm to the public every time a solicitor behaves dishonestly. It is in the public interest to ensure that, as it was put in Bolton, a solicitor can be "trusted to the ends of the earth"."

53. In causing improper claims to be included in bills to clients, which were subsequently paid by those clients, the Respondent had caused direct harm to those clients.

54. The Tribunal found the Respondent's conduct to be aggravated by his proven dishonesty. The dishonest conduct was deliberate, calculated and repeated over a significant period of time, and related to both expenses for which the Firm was responsible, and expenses that were then billed to his clients. Further, the Respondent had initially sought to conceal his actions. The Tribunal determined that the Respondent knew that his conduct was in material breach of his obligations to protect the public and the reputation of the profession; his knowledge of his obligations was clearly demonstrated in his letter to the Applicant of 7 August 2015.

55. The Tribunal noted that the Respondent had co-operated fully with the Applicant, admitting the facts and circumstances giving rise to his conduct. The Tribunal accepted that the Respondent had previously had a successful and unblemished career. His letter to the Applicant, and his admissions (albeit belatedly) to the Firm, showed that the Respondent had insight into his misconduct.

56. Given the serious nature of the allegations, the Tribunal considered and rejected the lesser sanctions within its sentencing powers, such as no order, a reprimand or restrictions. The Tribunal had regard to the case of Bolton v Law Society [1994] 2 All ER 486 in which Sir Thomas Bingham stated:

> "….Lapses from the required standard (of complete integrity, probity and trustworthiness)….may….be of varying degrees. The most serious involves proven dishonesty….In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced by the solicitor, ordered that he be struck off the roll of solicitors."

57. The Tribunal decided that in view of the serious nature of the misconduct, in that it involved dishonesty, the only appropriate and proportionate sanction was to strike the Respondent off the Roll of Solicitors. The Tribunal acknowledged that the Respondent was going through a difficult time at the time of the misconduct, however, it did not find that the circumstances of this case were enough to bring it in

line with the residual exceptional circumstances category referred to in the case of Sharma.

Costs

58. The total amount claimed in the Applicant's schedule of costs was £11,856.70. Mr Bullock requested an Order for the Applicant's costs in the total sum of £9,757.70. The application included a reduction for the amount of time estimated for Mr Bullock's preparation and attendance at the hearing. Further reductions were made in relation to attendance at the Case Management Hearing on 1 March 2016, as the Applicant had not been expected to attend, and at that hearing, no order for costs was sought by the Applicant. The Applicant's claim in relation to preparing the costs schedule and considering the judgment and closing the file were reduced to zero.

59. Although the Respondent's livelihood had been removed as a result of the Tribunal's Order, he had not submitted any evidence of his means. In the circumstances, the Tribunal did not consider this an appropriate case where there should be any deferment of the costs order. Further, the Respondent had not requested such an Order. The Tribunal Ordered that the Respondent pay costs of £9,757.70.

Statement of Full Order

60. The Tribunal Ordered that the Respondent, John Robert, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £9,757.70.

Dated this 28th day of July 2016
On behalf of the Tribunal

T. Cullen
Chairman