

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11465-2016

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

SUSAN IRENE MCCARVILLE

Respondent

Before:

Miss N. Lucking (in the chair)

Mr W. Ellerton

Mr D. E. Marlow

Date of Hearing: 12 July 2016

Appearances

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

The Respondent appeared in person.

JUDGMENT

Allegations

1. The allegations against the Respondent were that:
 - 1.1 By misleading a client into believing that the firm had not received monies from a third party when such monies had been received, the Respondent:
 - 1.1.1 Failed to act with integrity in breach of Principle 2 of the SRA Principles 2011; and/or
 - 1.1.2 Failed to act in the best interests of each client in breach of Principle 4 of the SRA Principles 2011; and/or
 - 1.1.3 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 of the SRA Principles 2011.

It was alleged the Respondent had acted dishonestly.

- 1.2 The Respondent withdrew client money in circumstances other than those permitted by Rule 20.1 of the SRA Accounts Rules 2011 (“SRA AR 2011”) in breach of that Rule and failed to use that client’s money for that client’s matter in breach of Rule 1.2(c) of the SRA AR 2011. It was alleged the Respondent acted dishonestly.
- 1.3 The Respondent failed to remedy breaches of the SRA AR 2011 promptly on discovery in breach of Rule 7.1 of those Rules.
- 1.4 By making or causing to be made false entries in a withdrawal slip and within a client account ledger in relation to the withdrawal from client account, the Respondent:
 - 1.4.1 Failed to act with integrity in breach of Principle 2 of the SRA Principles 2011; and/or
 - 1.4.2 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 of the SRA Principles 2011.

It was alleged the Respondent had acted dishonestly.

- 1.5 By misleading a client into believing that she had issued, and conducted, court proceedings on his behalf when in fact no such proceedings had been issued at that stage, the Respondent:
 - 1.5.1 Failed to act with integrity in breach of Principle 2 of the SRA Principles 2011; and/or
 - 1.5.2 Failed to act in the best interests of each client in breach of Principle 4 of the SRA Principles 2011; and/or

- 1.5.3 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 of the SRA Principles 2011.

It was alleged the Respondent had acted dishonestly.

The Respondent admitted all the allegations.

Documents

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

Applicant:

- Application dated 23 December 2015 together with attached Rule 5 Statement and all exhibits
- Letter from the Applicant to the Respondent dated 24 May 2016
- Further bundle of documents from the Applicant containing emails/correspondence between the Applicant and THP Solicitors dated 8 and 14 April 2016, 5 and 6 July 2016, SRA internal records and emails between the Applicant and the Respondent dated 4, 7 and 10 July 2016
- Applicant's Statements of Costs dated 23 December 2015 and 4 July 2016

Respondent:

- Respondent's Reply to the Rule 5 Statement dated 20 January 2016
- Statement of Susan Irene McCarville (the Respondent) dated 31 March 2016
- Respondent's Statement of Means dated 29 May 2016

Factual Background

3. The Respondent, born in August 1968, was admitted to the Roll on 17 October 1994.
4. The Respondent was a Member at THP Solicitors LLP, 9 Chalfont Court, Lower Earley, Reading, Berkshire, RG6 5SY ("the firm") from 1 May 2008 until 30 April 2015. Whilst she was a Member of the firm, the Respondent was authorised to operate both the firm's office and client accounts. She ceased working at the firm on 2 December 2014 although her resignation from the partnership took effect on 30 April 2015.
5. On 10 September 2014, the firm sent a report to the Solicitors Regulation Authority ("SRA") concerning the Respondent's conduct.

Allegation 1.1

6. The Respondent acted for PK who was the executor of the estate of his late wife, MK, in respect of a claim on behalf of his late wife for money due and payable to her estate from her business partnership AL. The claim had been made against NS and PW who were partners at AL. The parties had been unable to reach agreement as to the amount that should be paid to MK's capital account and/or her share of the partnership's assets.
7. A payment of £30,000 was made by way of three instalments of £10,000 each. These were payments on account of legal fees as confirmed in a without prejudice letter from AL to the firm dated 31 October 2011. The monies were paid by AL into the firm's client account on 4 November 2011, 24 November 2011 and 2 February 2012.
8. The Respondent accounted to PK for the two payments of £10,000 received on 4 November 2011 and 2 February 2012. She did not, however, inform PK of the payment of £10,000 received on 24 November 2011.
9. In an email to the Respondent dated 1 December 2011, PK asked if the payment on account had been received for December. The Respondent informed PK by email on the same day that she would check and come back to him.
10. The client ledger card for PK showed a balance of £10,000 on 27 November 2011 following receipt of the payment of £10,000 from AL on 24 November 2011.
11. On 14 November 2011 the Respondent sent an email to PK asking if she could deduct her fees from "monies on account". There was an invoice on the client file addressed to PK dated 27 November 2011 for the sum of £4,200. At the top of the invoice was written "NOT SENT TO CLIENT". The Respondent sent an email to the firm's Compliance Officer for Finance and Administration ("COFA") on 28 November 2011 stating she had spoken to the client and confirming the firm could deduct the invoice from the monies on account. The sum of £4,200 was transferred from PK's client account to the office account on 28 November 2011 described as "Bill payment".
12. On the client file there was a copy of a letter from the Respondent to PK dated 27 January 2012 which stated she was enclosing the firm's invoice for work to date and would deduct her fees from "monies on account". There was also a copy of an invoice on the file addressed to PK dated 27 January 2012 for the sum of £5,400. At the top of the invoice was written "NOT SENT TO CLIENT".
13. The client ledger card for PK showed the transfer of £5,265.37 from client account to office account on 27 January 2012 and described as "bill part payt". A further transfer from client account to office account in the sum of £134.63, bringing the total amount transferred to £5,400, was made on 2 February 2012. This was described as "Bill payment".
14. There was no evidence on the client file that PK was aware of the receipt of the sum of £10,000 from AL paid on 24 November 2011. Indeed, PK had made enquiries about the receipt of these monies on 1 December 2011. Furthermore, the Respondent's attendance note of her telephone conversation with PK on

28 November 2011, and her letter to PK of 27 January 2012 made no reference to her intention to deduct fees from the £10,000 payment received on 24 November 2011.

15. On 19 December 2012, PK telephoned the firm's accounts department and requested a statement of account showing monies he had paid to the firm, together with monies received from third parties and how the funds had been used. He informed the accounts department that he needed this information urgently "for the court which he is attending soon."
16. The accounts department produced a ledger statement for the Respondent to consider which showed receipt of three instalments of £10,000 from AL on 4 November 2011, 24 November 2011 and 2 February 2012. It also referred to the two bills of costs dated 27 November 2011 for £4,200 and 27 January 2012 for £5,400.
17. In an email to PK dated 2 January 2013 the Respondent sent him a copy of the ledger statement but the statement attached to the email showed only the receipt of two payments of £10,000 from AL on 4 November 2011 and 2 February 2012. There was no mention of the second instalment of £10,000 received on 24 November 2011. Furthermore, the entries relating to the two bills of costs dated 27 November 2011 and 27 January 2012 did not appear on the statement.
18. PK replied by email to the Respondent on 3 January 2013 stating:

"I would be grateful if you could please check your client account receipts and confirm whether or not a payment was received from [AL] in or around 21/11/11, as they are claiming that £10,000 was paid to [THP] on this date? This would make the total paid to you by them of £30,000 rather than the £20,000 shown on the statement? As the matter is now proceeding to court it's important that I am certain as to the value of monies received and when, especially if [AL] are incorrect in what they are quoting in their documents (which wouldn't be the first time....). However, if this "missing" payment was in fact received by [THP] in October/November 2011, then I would require immediate payment of it, plus interest, and an explanation of why I had not been informed at the time and why it was not previously forwarded to me please."
19. The Respondent replied by email on 3 January 2013 stating:

"I will get this checked but I am not aware of the payment. I will get back to you shortly."
20. Following a further email from PK on 7 January 2013, the Respondent stated in an email to PK on the same day:

"The ledger for your matter has been re-checked and it is not there but I have asked that the other ledgers are looked at, and a call to be made to the bank to check records for the period. [B] has been out for a few days but I will get onto this again tomorrow."

21. On 10 January 2013, PK contacted the Respondent by email again asking if the further checks had revealed receipt of the £10,000 instalment. He stated:

“As I haven't heard from you, I'm assuming that the checks [sic] haven't uncovered anything and that we can confirm to the court that the £10k payment in question was never received.”

22. The client file appeared to show that there was no further contact between PK and the Respondent in respect of the £10,000 instalment until 4 September 2014 when PK contacted the firm. By this time the firm was no longer acting for him as he had instructed other solicitors. The firm's file was closed on 24 April 2013.

23. On 4 September 2014, PK contacted the firm's accounts department and asked for confirmation as to how many payments of £10,000 had arrived from AL. He was informed three payments had been received by the firm on 4 November 2011, 24 November 2011 and 2 February 2012. PK requested the Respondent call him urgently.

24. The Respondent sent an email to PK on 9 September 2014 stating:

“Letter is coming out today as discussed.”

However, there was no record of a telephone conversation or letter to PK on the file.

25. In a subsequent letter to the SRA dated 25 February 2015, the Respondent stated:

“In relation to the statement of account I cannot explain my actions other than I must have panicked. I should not have changed statement. In taking the steps I did, I thought I was protecting the Firm and the partners from any recriminations from the client. All I did was make the situation worse....

I accept that I misled the client. As I have stated above I do not now recall why I amended the statement other than I panicked.....”

Allegation 1.2

26. The Respondent was the fee earner for both PK and DK who were separate clients, even though they shared the same surname. In DK's case the firm was acting for the executors of the estate of KG (deceased) in a contested contentious probate matter.

27. As stated above, the accounts department had made a record of their telephone conversation with PK on 4 September 2014 and sent it to the Respondent on the same day. Following this, PK had asked for the Respondent to call him urgently.

28. The following day, on 5 September 2014, the Respondent authorised the withdrawal of the sum of £11,309.41 from the client account of DK and paid that money directly to PK. The withdrawal was described on both DK's client ledger card and DK's client account withdrawal slip as being a payment to DK with a narrative giving the reason as “Paym re fees pd”. The payment slip was stated as being prepared by the Respondent. Whilst the payment slip stated the beneficiary of the payment of

£11,309.41 was DK, the bank account number and sort code did not relate to DK's account but instead were the bank account details for PK.

29. The Respondent did not seek or obtain authorisation or permission from DK to utilise her monies to make a payment to PK.
30. The Respondent in her letter to the SRA dated 25 February 2015 explained she had been under pressure in September 2014 and stated:

“I know I should have said something to my partners. Instead when hearing from [PK] I panicked and thought I could sort it out without involving my partners. I took the action to transfer monies from another client account [DK] on the basis that I would personally replace it. The monies were replaced as soon as I was in a financial position to do so....”

Allegation 1.3

31. By virtue of the improper withdrawals from DK's client account on 5 September 2014, the Respondent allowed a shortage of £11,309.41 to arise on DK's account ledger.
32. The Respondent made two payments from her own personal bank account to the firm's client account of £8,000 on 11 September 2014 and £3,309 on 18 November 2014 which partly replaced the client account shortage. The remaining shortage of 41p was replaced by the firm and the Respondent sent a cheque to the firm for this sum as soon as she became aware of it.

Allegation 1.4

33. The client ledger for DK and the payment slip described the withdrawal of £11,309.41 as being a payment to DK even though the payment was made to PK. The Respondent never advised the firm of the shortage on DK's client ledger caused by her actions but did make two payments from her own personal account of £8,000 on 11 September 2014 and £3,309 on 18 November 2014.
34. The payment of £8,000 into DK's account gave a narrative of “required” and the payment of £3,309 stated “refund”. The payment slips did not indicate the money was paid personally by the Respondent and nor did they give the full and accurate reason for the payments. The Respondent stated in her letter to the SRA dated 25 February 2015 that the first payment slip was not completed by her. However she confirmed she did complete the second payment slip.
35. In her letter to the SRA dated 25 February 2015 the Respondent stated:

“I cannot recall what was written on the bankline transfer slip nor that this was produced by me, but I can only accept the facts as presented.....

I was trying to resolve a “mess” created by me and in a false hope and panic thought I could sort it out without involving the partners at THP. With hindsight the bank account was always going to show the details but at the

time and in the blind panic that I was and under stress I did not see any other way to resolve the situation.

I was wrongly seeking to protect the firm from what I considered to be my errors, and used my own funds to do so. I should not have done this.”

Allegation 1.5

36. On 16 March 2012 the Respondent sent an email to PK stating:

“... I have not seen anything as yet from [A] and note that you want to issue. I will proceed with this on Monday now.”

PK requested an update on 21 March 2012 to which the Respondent replied on the same day stating:

“I am in the process of issuing....”

37. On 2 May 2012 PK requested a copy of the proceedings. He sent a reminder email on 4 May 2012 to which the Respondent replied on the same day stating a copy would “come out today”.

38. PK sent a further email to the Respondent in the evening of 4 May 2012 expressing his disappointment not to have received the documents. The Respondent replied in an email dated 6 May 2012 stating she:

“...didn't the chance [sic] to get the document to you in the post. I will make sure this is out to you on Tuesday.”

39. The next correspondence on the file was a letter from the Respondent to PK dated 12 June 2012 enclosing the firm's invoice. The letter stated:

“.... The court fee for issuing the proceedings as calculated by the Court was actually £465.”

40. On 2 July 2012 PK sent an email to the Respondent asking for an update on his case. He stated:

“As the proceedings were served on 2 May and the deadline date for the submission of their defence (or otherwise) passed on 30 May, why have we not heard from [A] or the Court since then?”

41. The Respondent sent an email to PK on 4 July 2012 stating:

“As far as I know no defence has been filed as yet and I have queried this with the Court, and further if any application to extend time for filing has been received. My next step is to threaten an unless order as you have stated in your email..... This will go out later today.”

42. A further email from the Respondent to PK on 5 July 2012 attached a letter also dated 5 July 2012 which she purported was sent by email to AL on the evening of 4 July 2012. On the client file there was a letter addressed to AL dated 5 July 2012 which referred to court proceedings, a Claim Form having been served on 2 May, that the time for serving a Defence had expired on 30 May and that unless a Defence was received within the next five days an application for an Unless Order would be made without further warning. The Respondent in her email to PK of 5 July 2012 stated:

“Hopefully this will have the desired response, but in the event that it does not I will prepare an application to the Court for the Unless Order.”

43. AL confirmed in a letter to the SRA dated 27 August 2015 that they could not recall or locate a copy of the letter from the firm dated 5 July 2012 referring to the Claim Form being served on 2 May 2012.

44. On 6 July 2012 PK sent an email to the Respondent requesting a scanned copy of the proceedings issued at court by the end of that day. On the evening of 6 July 2012 PK sent an email to the Respondent stating:

“When we spoke this morning you assured me that all was well and that the Court had issued the proceedings, as previously stated by you. However, despite my urgent request to have a copy of same by close of play today, this has not materialised and I'm now seriously doubting whether the case has been formally served?”

45. The Respondent sent an email to PK on 9 July 2012 stating proceedings had been served that afternoon and a response was due on 23 July 2012. The email stated that the sealed proceedings were attached. There was a copy of a letter to AL dated 9 July 2012 enclosing the Claim Form and Particulars on the file however, there was no copy of the sealed documents.

46. On 13 July 2012 PK sent a letter to the Respondent referring to her failure to issue proceedings until 9 July 2012 stating he would be instructing new solicitors due to the failure to issue proceedings when originally instructed and the:

“subsequent misleading communications from you to the contrary.”

47. The Respondent wrote to PK on 17 July 2012 apologising for “the misleading information you were given” and stating:

“I know I have let you down.”

PK subsequently instructed new solicitors to take over the claim in July 2012 and the Respondent sent PK's file to them on 19 July 2012.

48. There was no evidence on PK's client file that proceedings were issued and/or served on 2 May 2012. AL provided the SRA with a copy of the sealed Claim Form and Particulars of Claim which were issued and dated 9 July 2012.

Witnesses

49. No witnesses gave evidence.

Findings of Fact and Law

50. The Tribunal had carefully considered all the documents provided and the submissions of both parties. 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.

51. **Allegation 1.1: By misleading a client into believing that the firm had not received monies from a third party when such monies had been received, the Respondent:**

1.1.1 Failed to act with integrity in breach of Principle 2 of the SRA Principles 2011; and/or

1.1.2 Failed to act in the best interests of each client in breach of Principle 4 of the SRA Principles 2011; and/or

1.1.3 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 of the SRA Principles 2011.

It was alleged the Respondent had acted dishonestly.

Allegation 1.2: The Respondent withdrew client money in circumstances other than those permitted by Rule 20.1 of the SRA Accounts Rules 2011 (“SRA AR 2011”) in breach of that Rule and failed to use that client’s money for that client’s matter in breach of Rule 1.2(c) of the SRA AR 2011. It was alleged the Respondent acted dishonestly.

Allegation 1.3: The Respondent failed to remedy breaches of the SRA AR 2011 promptly on discovery in breach of Rule 7.1 of those Rules.

Allegation 1.4: By making or causing to be made false entries in a withdrawal slip and within a client account ledger in relation to the withdrawal from client account, the Respondent:

1.4.1 Failed to act with integrity in breach of Principle 2 of the SRA Principles 2011; and/or

1.4.2 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 of the SRA Principles 2011.

It was alleged the Respondent had acted dishonestly.

Allegation 1.5: By misleading a client into believing that she had issued, and conducted, court proceedings on his behalf when in fact no such proceedings had been issued at that stage, the Respondent:

- 1.5.1 Failed to act with integrity in breach of Principle 2 of the SRA Principles 2011; and/or**
- 1.5.2 Failed to act in the best interests of each client in breach of Principle 4 of the SRA Principles 2011; and/or**
- 1.5.3 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 of the SRA Principles 2011.**

It was alleged the Respondent had acted dishonestly.

- 51.1 The Respondent admitted all the allegations including the allegations of dishonesty. The Tribunal found all the allegations proved both on the Respondent's admissions and on the documents before it.
- 51.2 The Tribunal was satisfied from the documents provided that the Respondent had mislead PK into believing the firm had not received the sum of £10,000 paid to it on 24 November 2011. The firm's accounting records clearly showed receipt of these funds on that date. The Respondent had also withdrawn client funds from DK's account without DK's permission or consent on 5 September 2014 and used those funds to pay PK which was in breach of Rules 20.1 and 1.2(c) of the SRA Accounts Rules 2011. The firm's accounting records showed the Respondent did not replace those funds until 11 September 2014 (£8,000) and 18 November 2014 (£3,309), albeit from her own personal bank account.
- 51.3 The firm's accounts records showed the Respondent had made false entries on the withdrawal and payment slips on DK's file by stating the payment to DK related to a payment for fees paid, while entering the bank details for PK so the monies would actually be sent to PK's bank account. The Respondent had also sent various written communications to PK leading him to believe that court proceedings had been issued on his file when it was clear from the file that they had not.
- 51.4 The Tribunal had been referred to the case of Twinsectra Ltd v Yardley & Others [2002] UKHL 12 which set out the test to be applied when considering the issue of dishonesty. Firstly, the Tribunal had to consider whether the Respondent's conduct was dishonest by the ordinary standards of reasonable and honest people. Secondly, the Tribunal had to consider whether the Respondent herself realised that by those standards her conduct was dishonest.
- 51.5 The Tribunal was satisfied that misleading PK into believing the firm had not received one of the instalments of £10,000 when it had, then withdrawing funds from DK's account to pay PK without DK's knowledge by making false entries on the withdrawal/payment slips on DK's file, and informing PK that court proceedings had been issued on his case when the file showed they had not, were all conduct that

would be regarded as dishonest by the ordinary standards of reasonable and honest people.

- 51.6 In relation to Allegation 1.1, it was clear that the Respondent had known the sum of £10,000 was received from AL on 24 November 2011 because she had deliberately removed any reference to it and to the firm's bills of 27 November 2011 and 27 January 2012 when she sent a statement of account to PK on 2 January 2013. She did not inform PK the sum of £10,000 had been received when he made a further enquiry about it in December 2012. Instead she altered the statement of account to conceal the payment had been made and that costs had been deducted from it. Furthermore, on 3 January 2013 and 7 January 2013, the Respondent informed PK she was not aware of the payment and that it was not on his ledger. She must have known this was untrue as she had removed reference to it from the statement of account she had sent to PK a day earlier. The Tribunal was satisfied that deliberately concealing this information showed the Respondent realised that her conduct was dishonest by the ordinary standards of reasonable and honest people.
- 51.7 In relation to Allegations 1.2 and 1.4, again the Respondent had deliberately concealed the true position by identifying another client, DK, who had exactly the same surname as PK and then giving instructions to the firm's cashiers to transfer funds from DK's account purportedly to DK but giving false information for the reason for the transfer as well as the bank account number for PK to which the funds were to be transferred. This was a conscious calculated action designed to deceive the firm's cashiers to believe a payment was being made to DK when it was actually being made to PK, and showed the Respondent realised that her conduct was dishonest by the ordinary standards of reasonable and honest people.
- 51.8 In relation to Allegation 1.5, the file for PK showed that court proceedings were not issued on his file until 9 July 2012. However, the Respondent led PK to believe that proceedings had been issued on 2 May 2012 and even made reference to a court fee "calculated by the Court" of £465 in her letter to PK dated 12 June 2012. She then informed PK on 4 July 2012 that no defence had been filed and set out what she intended to do about it. This conduct, which took place over a 2 month period was concealing the true position from PK and deliberately misleading him concerning the progress made with his claim. The Respondent's conduct in doing so showed that she knew her conduct was dishonest by the ordinary standards of reasonable and honest people.
- 51.9 The Tribunal found all the Allegations proved including the allegations of dishonesty.

Previous Disciplinary Matters

52. None.

Mitigation

53. The Respondent apologised to the Tribunal for her conduct and stated she was ashamed to appear before the Tribunal for actions which were totally reprehensible. She stated she had got herself into "sticky waters" and had compounded the situation by carrying on what she was doing. She stated she had been trying to resolve a series

of events to try and “make it right” as only she could but instead, she had made it worse.

54. In her witness statement dated 31 March 2016, the Respondent made reference to a stressful period at work and difficulties in her personal life as well as health issues. In her letter to the SRA dated 25 February 2015, the Respondent also stated she had personally repaid all the funds to DK as soon as she was in a financial position to do so. She stated she had let herself down, and let down her colleagues and her profession.

Sanction

55. The Tribunal had considered carefully the Respondent’s submissions and statement. The Tribunal referred to its Guidance Note on Sanctions when considering sanction. The Tribunal also considered the aggravating and mitigating factors in this case.
56. The Respondent had acted dishonestly in several instances and her conduct had been deliberate, calculated and taken place over a long period of time. She had concealed her wrongdoing by altering a statement of account that was sent to PK, entering false details on withdrawal/payment slips on DK’s file to enable her to use DK’s money to pay PK and she had misled PK about the progress of court proceedings on his file. These were all aggravating factors. There was also a devious element to her behaviour in that she had identified a client with exactly the same surname as PK so that she could transfer funds from that client’s account to PK’s account without the firm’s cashiers realising.
57. However, the Respondent had repaid the funds on DK’s file from her own bank account including interest, she had cooperated with her regulator and these disciplinary proceedings, she had shown genuine insight and remorse, and made open and frank admissions at an early stage. She had had a previously long unblemished career and the Tribunal gave her credit for appearing before it which was courageous in the circumstances.
58. The Tribunal considered this was a sad case and it was difficult to understand why the Respondent had acted as she had. The Tribunal noted she had not benefited personally from the funds transferred from DK’s account to PK and she had used her own personal money to repay the amounts taken. She had been a senior solicitor with supervisory responsibilities over a number of years and it was unfortunate that she had found herself in this position.
59. The Tribunal was mindful of the case of the SRA v Sharma [2010] EWHC 2022 (Admin) in which Coulson J stated:
- “Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the roll”
60. The Respondent had not provided evidence of any exceptional circumstances. As such, the Tribunal was satisfied that there were no exceptional circumstances in this case. The Tribunal concluded the minimum sanction necessary to protect the public

and maintain confidence in the profession was to strike the Respondent off the Roll of Solicitors and so Ordered.

Costs

61. Mr Bullock, on behalf of the Applicant requested an Order for his costs. He provided the Tribunal with a Statement of Costs indicating his total costs were £6,768.30. Mr Bullock confirmed the amount had been agreed with the Respondent. However, he also confirmed some reduction did need to be made to the amount claimed to take into account the fact that the hearing had taken less time than anticipated. The sum of £65 for preparation of the Costs Schedule also needed to be deducted.
62. The Respondent confirmed the costs were agreed. She referred the Tribunal to her Statement of Means and indicated she would be seeking to make payment by way of instalments.
63. The Tribunal considered the Applicant's Statement of Costs carefully and noted these had been agreed by the Respondent. The Tribunal allowed three hours for attendance at the hearing and deducted the sum of £65 for preparation of the Statement of Costs as requested by Mr Bullock. Having made these deductions, the Tribunal assessed the Applicant's costs in the total sum of £6,183.30 and ordered the Respondent to pay this amount.
64. The Tribunal was mindful of the cases of William Arthur Merrick v The Law Society [2007] EWHC 2997 (Admin) and Frank Emilian D'Souza v The Law Society [2009] EWHC 2193 (Admin) in relation to the Respondent's ability to pay those costs. The Respondent had indicated in her Statement of Means that she had an asset. Furthermore, the Tribunal was mindful that it was possible she could gain some form of alternative employment, in light of her age and that she was willing to make payments by instalments. The Tribunal did not therefore consider it necessary for there to be any deferment of the costs order.

Statement of Full Order

65. The Tribunal Ordered that the Respondent, SUSAN IRENE MCCARVILLE, 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 £6,183.30.

Dated this 25th day of August 2016
On behalf of the Tribunal

N. Lucking
Chairman