SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 11476-2016

BETWEEN:

SOLICITORS REGULATION AUTHORITY Applicant

and

CHRISTOPHER TOMOS HALE Respondent

Before:

Mr A. G. Gibson (in the chair)
Mrs A. Kellett
Mrs N. Chavda

Date of Hearing: 16 June 2016

Appearances

Ms Tetyana Nesterchuk, Counsel of Fountain Court Chambers, Fountain Court, Temple, London EC4Y 9DH, instructed by Mr Paolo Sidoli, Solicitor of Russell Cooke Solicitors, 2 Putney Hill, London SW15 6AB for the Applicant.

The Respondent appeared and represented himself.

JUDGMENT

Allegations

1. The allegations against the Respondent in the Rule 5 Statement were that:

1.1 The Respondent failed to exercise any control over the Firm and permitted it to be run by non-solicitors, Mr and Mrs H. Accordingly, he failed to run the Firm effectively in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SRA Principles 2011 ("the Principles") and Outcomes 7.2, 7.3 and 7.4 of the SRA Code of Conduct 2011("the SCC 2011"). The Respondent thereby acted recklessly as to how the Firm was run by non-solicitors whom he allowed to inappropriately control the Firm; and/or without integrity, in breach of Principle 2 of the Principles; and behaved in a way that did not maintain the trust the public placed in him and in the provision of legal services, in breach of Principle 6.

1.2 The Respondent caused or permitted the Firm to accept, and use, approximately £8,337,539 or, at least, £7,913,939[1] (net of a "Facilitation Fee")[2] from the Axiom Fund in circumstances where it was improper for the Respondent to do so for the following reasons (and each of them):

1.2.1 he knew and/or was reckless to the fact that the Firm had not complied with the terms of the Panel Solicitors Services Agreement ("PSSA"), which the Respondent would have seen at least shortly after the receipt of the SRA's letter to the Respondent dated 18 June 2012; alternatively shortly after the first inspection visit into the Firm on 26 June 2012 and the Precedent Litigation Funding Agreement ("LFA") signed by the Respondent, pursuant to which the money was purportedly advanced. The terms of those agreements were intended to protect the interests of the Axiom Fund and of the ultimate investors[3] in the Axiom Fund;

1.2.2 he knew and/or was reckless to the fact that the PSSA and the LFA pursuant to which the money was advanced did not reflect and were inconsistent with the purpose for which the Firm intended to use and/or in fact used the money, and that the intended and actual use of the money was not properly documented by the Respondent and the investment manager;

1.2.3 he knew or was reckless as to the fact that repayment by the Firm of the money advanced within the time required by (i) the PSSA, namely within 18 months of the loan advance, and (ii) the LFA, namely within 12 months from the date of the LFA, was very unlikely;

1.2.4 he misused the funds received by failing to apply them or failing to ensure that they were applied only towards "Fees and expenses", as required by the PSSA,

[1] The first three advances from the Axiom fund, totalling £423,600, were received by the Firm in July 2011 prior to the Respondent's appointment as a director of the Firm.

[2] The Interim Report of Forensic Investigators dated 11 February 2013 noted that the Firm's indebtedness to the Axiom Fund amounted to £13,555,826 as at 31 October 2012, of which the sum of £3,974,100 was debt incurred in respect of facilitation fees.

[3] The investors invested via a "*feeder fund*", which invested in the investment fund that provided the funds.

or "Eligible Legal Expenses", as required by the LFA but instead paying (inter alia) sums totalling £1,495,104 to Mr and Mrs H and companies owned or operated by them between June 2011 and February 2013;

1.2.5 the Respondent knew or was reckless as to the fact that the money was advanced ostensibly for cases which the Firm was not permitted to handle due to lack of client authorisation or cases which were unlikely to succeed;

1.2.6 in light of the above circumstances and despite being on notice of the serious risk that the Axiom Fund's investment manager, in arranging for the money to be paid to the Firm, was acting fraudulently, or committing some other serious breach of duty, towards the Axiom Fund and/or its ultimate individual investors, he failed to carry out any or sufficient enquiries reasonably to satisfy himself that the advance of Axiom funding of around £8,337,539 to the Firm did not involve any such conduct by the investment manager;

1.2.7 he unreasonably risked the Firm being a party to a transaction in fraud of the Axiom Fund and/or its ultimate individual investors, or which involved other serious breach of duty by the investment manager towards them (or one of them); and/or

1.2.8 in all the circumstances, as the Respondent knew or suspected or would have known or suspected at least following the publication of various allegations against (inter alia) Axiom and Mr Schools in or around August 2012 had he not shut his eyes and ears to the obvious, the transaction pursuant to which the money was received had the hallmarks of being dubious, and the money should not have been accepted or used.

The Respondent thereby acted without integrity, in breach of Principle 2 of the Principles, and behaved in a way that did not maintain the trust the public places in him and in the provision of legal services, in breach of Principle 6.

1.3 The Respondent failed to pay the money identified in allegation 1.2 into client account or, if he wrongly but honestly believed that it was office money, failed to pay it into an office account whose sole purpose was to hold the monies pending their use for an authorised purpose, and failed to keep adequate records of how the monies were spent, contrary to Principles 2, 6, 8 and 10 of the Principles and to rules 1.2(a), 1.2(b), 1.2(d), 1.2(e), 1.2(f) and 14.1 of the SRA Accounts Rules 2011 (the "SARs").

1.4 The Respondent assisted the misuse of the Axiom funds by the Axiom Fund's investment manager [Tangerine Investment Management Limited ("Tangerine")] and those persons associated with it, in particular, but not limited to Mr and Mrs H, despite being on notice from August 2012 of the serious risk that the investment manager and/or Mr and Mrs H were acting fraudulently, or, in case of the investment manager only, in breach of its mandate from the Axiom Fund or committing some other serious breach of duty, towards the Axiom Fund and the ultimate investors. The Respondent thereby acted without integrity, in breach of Principle 2 of the Principles, and behaved in a way that did not maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6.

1.5 The Respondent permitted funds to be paid through the Firm's accounts in the absence of any underlying legal transaction and thereby acted in breach of Rule 14.5 of the SARs and Principle 8 of the Principles and Outcome 7.5 of the SCC 2011.

1.6 The Respondent acted recklessly by giving false and/or misleading and/or delayed information to the SRA, contrary to Principles 2 and 7 of the Principles and Outcome 10.6 of the SCC 2011.

1.7 The Respondent failed to undertake until the end of 2011 any due diligence in relation to its ATE insurance provider, Frion Insurance, to satisfy himself as to the validity of the policies the Firm obtained on behalf of its clients despite the warning notice placed in the Law Society website notifying that insurance provided by Frion was not underwritten by HSBC plc, as claimed in Frion's policy documentation. Accordingly, the Respondent acted contrary to his core duties pursuant to rules 1.04 and 1.05 of the Solicitors' Code of Conduct 2007 and/or Principles 4 and 5 of the Principles.

2. The SRA also alleged that the Respondent acted dishonestly after August 2012 in relation to the allegations 1.2, 1.4 and 1.5. Further, or alternatively, he acted recklessly in relation to allegations 1.1, 1.2, 1.3, 1.4, 1.5 and 1.6. The allegations did not, however, depend on the Tribunal making a finding of dishonesty or recklessness.

Documents

3. The Tribunal reviewed all of the documents submitted by the Applicant and the Respondent, which included:

- Volume 1 – Application and Rule 5 Statement dated 25 January 2016; Interim Forensic Investigation Report dated 11 February 2013 ("the FIR"); ("the Interim FIR"); Final Forensic Investigation Report dated 26 June 2013 ("the Final FIR");
- Amended Rule 5 Statement dated 23 March 2016;
- Volumes 2 – 5 - Documents from the Rule 5 Statement Exhibit "PAS1" ;
- Applicant's Bundle of Documents for Hearing;
- Applicant's Schedule of Costs;
- Respondent's Mitigation Statement dated 24 March 2016.

Factual Background

4. The Respondent was admitted to the Roll in November 2000. He trained at a reputable firm, where he was kept on and worked in the Firm's shipping and marine insurance department. After leaving his training establishment, the Respondent went on to work at a number of other substantial practices. However, his Practising Certificate for the period 1 November 2012 to 31 October 2013 was suspended as a consequence of the intervention by the Applicant into his practice and that of the Firm on July 2013. The Respondent had not sought to lift that suspension or apply for a Practising Certificate and was not listed as working for or being employed by any entity that was authorised and regulated by the Applicant.

5. The allegations arise from the Respondent's management as sole director of the intervened firm of Rohrer & Co Ltd ("the Firm") and dealings with the Axiom Legal Financing Fund, Segregated Portfolio and Axiom Legal Financing Fund Master, Segregated Portfolio ("the Axiom Fund"), an investment fund established in the Cayman Islands for the ostensible purpose of providing litigation funding to law firms based in the UK.

6. The Firm was originally formed as a branch office of Emmetts Solicitors Limited ("Emmetts") (subsequently renamed Ashton Fox Solicitors Limited) and incorporated as Legal Direct Limited on 2 January 2007. The Firm became independent of Emmetts and changed its name to Bracewell Law Limited on 13 April 2011. On 4 December 2012 Bracewell Limited changed its name to Rohrer & Co. The Respondent joined the Firm on 29 September 2010 on a temporary basis, and was offered a permanent contract by Mr and Mrs H "after a month of working", i.e. at the end of October 2010. In September 2011 the Respondent was offered a directorship in the Firm and became the Firm's director on 10 October 2011.

7. Initially, the Firm's shares were owned by Mr Timothy Schools (60 shares) and Mr Emmett (40 shares). The entire share capital of the Firm was transferred to the Respondent on 1 January 2012. From 1 January 2012 until the intervention, the Respondent was the sole director and shareholder of the Firm.

8. The Firm obtained over £8 million of funding from the Axiom Fund pursuant to the terms of several agreements, including the LFA signed by the Respondent on behalf of the Firm on 2 May 2012 and, previously, the PSSA. Pursuant to the LFA, the Respondent, on behalf of the Firm, undertook to use the funding only in accordance with specified purposes/permitted uses (in particular, the funding of "Eligible Legal Expenses" as defined in the agreement). Substantial amounts of the funding obtained was applied for general practice purposes, he allowed non-solicitors of "questionable integrity" (Mr and Mrs H, who appear to have been managing the Firm and/or exercising improper influence over the Firm) to appropriate at least £1,495,104.75 of the funding for their own use, and by using over £3 million of funding to make dubious "investments" with an "IKEN Capital Commodity Fund" and a Swiss bank, Pictet & Co via "a kind of investment programme".

<u>The Axiom Fund</u>

9. The Axiom Fund was a quasi-retail fund with numerous small investors, including individuals. By 2012, investors had invested over £100 million in the Axiom Fund. The structure of the Axiom Fund was as follows:

- JP SPC 1 was a segregated portfolio company incorporated in the Cayman Islands comprising various sub-funds, known as "segregated portfolios", incorporated in 2007;

- Axiom Legal Financing Fund, Segregated Portfolio was a segregated portfolio of JP SPC 1;

- JP SPC 4 was another segregated portfolio company incorporated in the Cayman Islands;

- Axiom Legal Financing Fund Master, Segregated Portfolio was a segregated portfolio of JP SPC 4;

- the Axiom Legal Financing Fund, Segregated Portfolio owned shares in, and was the feeder fund for, the Axiom Legal Financing Fund Master, Segregated Portfolio; and

- Synergy Solution Limited ("SSL") and, later, Tangerine Investment Management Ltd ("Tangerine") performed the role of the investment manager of Axiom Legal Financing Fund, Segregated Portfolio and Axiom Legal Financing Fund Master, Segregated Portfolio. Tim Schools was a director of SSL and Mrs H was stated to be a senior manager of SSL in the Axiom Fund's Due Diligence Report.

10. The expression "the Axiom Fund", where used below, refers to either the Axiom Legal Financing Fund, Segregated Portfolio, or the Axiom Legal Financing Fund Master, Segregated Portfolio, or to both funds (the distinction between them being immaterial to the allegations against the Respondent).

11. The Axiom Fund's managers promoted it to investors as one that provided funding to law firms in the UK to finance the conduct of legal cases and some non-litigious cases which would return sufficient profit in order to repay the loan, such as divorce cases.

12. The Applicant understood that the basis on which investors invested in the Axiom Fund was set out in:

12.1 The Offering and Supplemental Offering Memoranda (together "the Offering Memoranda"). There was one Offering Memorandum("OM") dated June 2009 and Supplemental Offering Memoranda ("the SOM") dated August 2010, January 2012, and September 2012 ; and

12.2 Axiom fact sheets dated September 2011, June 2012 and July 2012, Axiom Legal Financing Segregated Portfolio Information sheet (published in or around September 2011) and Axiom Legal Financing Segregated Portfolio FAQs dated 14 September 2011 (together "the Axiom Fund Promotional Materials").

13. The terms on which SSL and subsequently Tangerine acted as investment manager on behalf of the Axiom Fund were set out in an investment management agreement dated 25 May 2009 between JP SPC 1 on behalf of the Axiom Legal Financing Fund Segregated Portfolio, JP SPC 4 on behalf of Axiom Legal Financing Fund Master Segregated Portfolio and SSL, the previous investment manager. Tangerine subsequently became a party to the agreement, as investment manager, in place of SSL pursuant to a Deed of Assignment dated 1 March 2012. SSL and Tangerine were owned by Mr Schools.

14. Synergy (IOM) Ltd was the Loan Manager and also owned by Mr Schools.

15. From August 2012 onwards articles appeared on an internet site called "Offshore Alert" and other websites accusing Mr Schools, (who had established the Axiom Fund and was owner and director of SSL and Tangerine), and Tangerine of fraud, and alleging that the Axiom Fund was a fraudulent scheme. The Respondent informed the

SRA that from July 2012 he became aware of the "negative publicity surrounding the fund", including from the articles appearing in Offshore Alert.

16. On 26 October 2012, the directors of the Axiom Fund suspended the calculation of net asset values for participating shares and suspended share redemptions, with effect from 30 September 2012. The Respondent stated to the SRA that he learnt about the suspension of the Axiom Fund from an article in Offshore Alert.

17. On 12 February 2013, Grant Thornton were appointed as Receivers of the Axiom Fund and the Respondent was informed of the same on 18 February 2013**.**

18. On 21 May 2013, the Receivers of the Axiom Fund commenced civil proceedings against various people associated with Tangerine and others seeking damages of over £100 million on various grounds including fraud, conspiracy, breach of fiduciary duty and breach of contract. The Axiom Fund remains in Receivership.

The Firm's funding arrangements with the Axiom Fund

19. The Respondent informed the SRA that the Firm's relationship with the Axiom Fund was established when it was still a branch office of Emmetts in or around September 2010. The Firm began to receive funds in July 2011 pursuant to the terms of the PSSL and the Synergy Panel Solicitors Operations Manual ("the Operations Manual") contained in Schedule 1 thereto.

20. On 2 May 2012, the Respondent signed the LFA on behalf of the Firm pursuant to which the Firm was entitled to obtain further funding of up to £30 million from the Axiom Fund. The Respondent informed the SRA that prior to signing the LFA, he reviewed the Fund Offering Memorandum and the Supplementary Offering Memorandum and generally read as much about the fund as he could find online, by way of due diligence into the Axiom Fund and to confirm the source of funding. There were a number of Offering Memoranda produced by the Axiom Fund and it was unclear which, if any, document or documents were in fact reviewed by the Respondent.

21. Each of the Offering Memoranda made clear that loans to firms were funded by investors, who invested their funds in Axiom on the basis of, amongst others, the following representations (made in particular in the January and September 2012 Offering Memoranda):

> "**Investment Objective and Strategy**
>
> … The Master Segregated Portfolio provides short term fixed charge loans to Panel Law Firms to pursue legal cases on behalf of their client [sic].
>
> **Investment Criteria**
>
> Loans are provided to suitably qualified law forms exclusively in the United Kingdom (excluding Scotland), for "Permitted Uses". Permitted uses of loans are determined by the Investment Manager using the criteria that:

1. Litigation cases must carry "After the Event" insurance to repay the costs if the case loses and Indemnity Loan Guarantee Insurance, non-litigious cases (such as divorce) must carry Indemnity Loan Guarantee Insurance;

2. It must be straightforward to determine the likely success of each case easily;

3. There is a high probability that cases can be completed in under a year.

Use of the Money

Loans to law firms are only available to meet permitted costs related to Permitted Uses. These Permitted Uses shall, for the time being, be restricted to different types of litigation funding or dispute resolution such as divorce actions.

… The Directors may modify the investment objectives, strategies, policies and restrictions of the Segregated Portfolio from time to time. Reasonable written notice will be provided to Participating Shareholders prior to any material change, to allow a Participating Shareholder to redeem its Participating Shares before the change takes effect."

The terms of the PSSA and LFA

Permitted uses of funding

22. As the Respondent knew (alternatively, should have known at the latest from the date he became a director of the Firm on 10 October 2011), the PSSA and LFA contained various terms restricting and controlling the use of sums provided. The evident purpose of these terms was to reduce the risk that sums provided by the Axiom Fund to the Firm would not be repaid, and to protect the interests of the Axiom Fund and of the ultimate investors.

23. Pursuant to clause 9.2(a) of the PSSA, the Firm undertook to use the monies advanced by the Axiom Fund only for the purpose of paying fees and expenses approved by the Loan Manager (Synergy (IOM) Limited) "that have been incurred by the Solicitor in connection with the legal action to recover a client's damages, including but not limited to audit fees, insurance premiums, Enquiry Agents fees, Agent sign-up fees, court fees, and the finance fees, as set out in the fee table within the Solicitors Operations Manual" and for no other purpose. The relevant "finance fees" included an administration fee to the Loan Manager of c. 20%, a fee to the Strategic Advisor (i.e. SSL) also of c. 20% and a 10% "finance fee". In other words, approximately 50% of the amount advanced by the Axiom Fund to the Firm was payable immediately to entities connected with Mr Schools.

24. Pursuant to clause 2 of the LFA the Firm could only use the money for two specific purposes (clause 2), which were:

24.1 to fund "Eligible Legal Expenses", as defined in clause 1.1, which essentially were disbursements in respect of a claim, including court fees, ATE insurance or referral fees. The use of the loan to fund the firm's own costs was specifically excluded; and

24.2 to fund a financial guarantee insurance premium ("FGI").

Requirements for funding: documents needed

25. Pursuant to the PSSA, the Firm could only request a drawdown of funds in respect of a claim once it has been confirmed that ATE insurance was obtained for the relevant claimant (clause 9.2(b)).

26. Pursuant to the LFA signed by the Respondent:

26.1 The Firm could not draw funds unless it had sent to the investment manager all of the documents and other evidence listed in Part A of Schedule 1 (clause 3.1), which included:

- various documents concerning the Firm's constitution and its ability to enter into the agreement;
- written confirmation from the insurers to the Axiom Fund that the Axiom Fund was or would be included as a co-insured under the FGI policy.

It was a further condition precedent for the provision of each tranche of funding that the Firm provide the investment manager with details of the relevant Legal Expenses for which the money was requested and all related invoices, and that the investment manager confirm that it was satisfied that the Legal Expenses were Eligible Legal Expenses (clause 3.2 and Part B of Schedule 1).

27. As further conditions precedent for the provision of the first tranche of funding in respect of each claim (clause 3.3 and Part C of Schedule 1), the Firm was required to provide the investment manager with certain documents, including:

- a copy of any conditional fee agreement for the relevant claimant;
- a copy of the Legal Funding Facility Application Form for the claimant;
- a copy of the written advice regarding the claimant's prospects of success in its claim or related proceedings;
- a copy of Legal Expenses Insurance in relation to the claimant and claim.

The Utilisation Request for each drawdown had to satisfy certain requirements including that it specify the Eligible Legal Expenses and Financial Guarantee Insurance Premium (if applicable) in relation to which the request for drawdown of funds was being made and the client account to which the proceeds were to be credited (clause 4.2).

Financial Guarantee Insurance

28. Pursuant to the LFA, the Firm was required to take out what was described as "Financial Guarantee Insurance" to cover amounts outstanding under the LFA and procure the inclusion of the Axiom Fund as co-insured (clauses 5 and 12.3).

When the loans had to be repaid

29. Pursuant to the PSSA, the Firm was required to repay all loans and charges within 18 months of the loan advance (clause 9.5).

30. Pursuant to the LFA, the Firm was required to repay any advances received under the facility, including the Facilitation Fee ("FF"), within 12 months of the date on which the relevant sum was advanced (clauses 1 and 6).

The primacy of the written agreement

31. The applicability of the terms of the PSSA were reinforced by the requirement that any variations to the PSSA must be made in writing and signed by a Director of the Strategic Adviser (SSL), a Director of the Loan Manager (Synergy (IOM) Limited) and a partner or other authorised signatory of the Firm (clause 21).

32. Similarly, the applicability of the terms of the LFA to the monies provided by the Axiom Fund to the Firm were reinforced by an entire agreement clause, which made it clear that the written terms of the LFA superseded any prior arrangement, agreement or representation (clause 22).

The Facilitation Fee

33. The Respondent was or should have been aware that pursuant to the terms of the PSSA only 50% of the loan balance was received by the Firm, with the remaining 50% being deducted and distributed to various companies connected to Mr Schools. The Firm's accountant, IA, explained to the SRA (in the Respondent's presence) that the remaining 50% of the loan was distributed as follows:

- 20% for audit (to a company called Checkmate);
- 20% for strategic advice to the Investment Manager;
- 10% for insurance;
- 40% for operating the fund (to Synergy (IOM) Limited, the loan manager);
- 10% for commission.

34. The Respondent was aware that pursuant to the LFA, Tangerine, would receive a so-called "Facilitation Fee" ("FF") or a part thereof, equal to 50% of each loan actually advanced to the Firm. The Respondent accepted that "a 50% fee is extremely high". The FF was deducted from the loan amount before any sums were received by the Firm, however, the liability for the FF was added to the debt due from the Firm under the LFA, which expressly provided for the repayment of the FF by the Firm (clauses 6 and 10.2).

The receipt of funds by the Firm

35. The following funding was received by the Firm:

Date received	**Amount received (net of Facilitation Fee) (£)**	**Narrative provided by the Firm**
12/07/2011	216,600	Synergy (IOM) Limited Synergy IOM
18/07/2011	57,000	Resolver Claims Management Acquisition Costs
20/07/2011	150,000	Synergy (IOM) Limited Synergy IOM
14/11/2011	328,700	Synergy (IOM) Limited Synergy IOM 346 cases
19/12/2011	86,500	Synergy (IOM) Ltd Clt A/c re JP Synergy SIOM 1111/2 SIOM 1111/1
20/12/2011	3,250,800	Synergy (IOM) Clt A/c re JP Synergy IOM Divorce case
23/01/2012	285,000	Synergy (IOM) Ltd Clt A/c re JP Synergy IOM 300 cases
29/02/2012	237,500	Synergy (IOM) Ltd Clt A/c re JP Synergy 250 cases
19/03/2012	110,000	Synergy (IOM) Ltd Clt A/c re JP Synergy Acquisition Jan+Feb
04/04/2012	343,900	Synergy (IOM) Ltd Clt A/c re JP Synergy IOM 362 cases
11/04/2012	70,952	Synergy (IOM) Ltd Clt A/c re JP Synergy Acquisition March
24/04/2012	448,400	Synergy (IOM) Ltd Clt A/c re JP Synergy April Funding
27/04/2012	94,400	Synergy (IOM) Ltd Clt A/c re JP Synergy Acquisition April
23/05/2012	618,098	Synergy (IOM) Ltd Clt May Funding less £1,888
28/06/2012	700,206	Synergy (IOM) Ltd CL Synergy June Funding
02/08/2012	394,224	Synergy (IOM) Ltd CL Synergy 1032 cases top up VWF
16/08/2012	945,259	Synergy (IOM) LT 897364 synergy
Total:	**£8,337,539**	

36. The Respondent informed the SRA that he was not involved in the draw-down of Axiom funds but that he "would have been aware of the degree of draw-downs". He further stated that, whilst he "was aware that the [Axiom] Funds were financing the Right to Buy cases", he "did not know the details of the individual draw-down requests that had been made, or the basis on which the loans were made" despite being the sole director and shareholder of the Firm since 1 January 2012.

37. The Respondent was aware (or should have been aware at the latest from the date he became a director of the Firm on 10 October 2011) that pursuant to the terms of the PSSA (which could only be varied in writing) and PLFA (which contained the entirety of the parties' agreement):

- the firm could only use the loan advanced to fund permitted fees and expenses (pursuant to the PSSA), or "Eligible Legal Expenses" and financial guarantee insurance premiums (pursuant to the LFA);

- the funds were advanced at an interest rate of 15% per annum for the first 12 months and at a fixed rate of 1.5% per month thereafter; and

- the firm remained liable to repay the gross loan amount (including the FF and FGI premiums) after 18 months (pursuant to the PSSA) or 12 months (pursuant to the PLFA) from the date the funds were advanced.

<u>The Firm's use of the funds</u>

38. At all material times the Respondent knew that the Firm used the sums received from the Axiom Fund for the following purposes, none of which were permitted under the LFA:

38.1 It paid amounts totalling £1,495,104.75 to entities owned and operated by Mr and Mrs H, including:

(a) between April 2012 and March 2013, payments totalling £395,866.80 to FFL, a company owned and managed by Mr H. The Respondent initially told the SRA that First For Law (FFL) was a "referrer" but later explained that in fact FFL provided administration services to the Firm;

(b) between September 2011 and April 2013, payments totalling £75,242.86 to Cloudfinity, a company jointly owned by Mr H (through N Ltd) and Mrs AD, that provided web hosting services to the Firm;

(c) between June 2011 and February 2013, payments totalling £1,023,995.09 to HC, a company owned and managed by Mr and Mrs H.

In his interview with the SRA, the Respondent acknowledged that these payments were very high.

38.2 On or around 20 February 2012, the Firm transferred £3 million of the funds held specifically for the purpose of funding MY's divorce matter to BMA Brandstatter ostensibly "on behalf of [NFL] a company which is investing in the Provartis fund".

NFL was a Marshall Islands company reportedly owned by Tim Schools. These funds were then transferred to an account with a Swiss bank, Pictet and Co and will be referred to as the "Pictet monies". On 9 November 2012, the Respondent informed the SRA that over £3 million of the Firm's funds were held in an "overseas account" for which the Respondent and Mrs H were the sole signatories. That statement was incorrect. The £3 million transferred by the Firm was in fact held in a Pictet account in the name of a Mr BS, which was frozen by a Swiss prosecutor pending investigation. Several firms were instructed by the Firm to assist with recovering the Pictet monies: Fladgate LLP instructed on or about 28 December 2012, Mishcon de Reya ("Mishcons") and Des Gouttes and Associates in Switzerland. The latter filed a complaint with the Swiss Prosecutor on 2 January 2013. On 6 February 2013, the Respondent informed the SRA that Mishcons and Des Gouttes were instructed to recover the Pictet monies. In a letter to Des Gouttes provided on 15 March 2013 for the purpose of providing further information as to the provenance of the Pictet monies to the Swiss prosecutor, the Respondent explained that NFL "introduced [the Firm] to Provartis AG and offered [the Firm] the opportunity to take part in an investment on a profit share basis". However, it appeared that the Firm decided to invest on its own rather than jointly with NFL. The reason the paperwork still referred to the investment being made on behalf of NFL "was simply due to our failure to prepare and send a new transfer order".

38.3 On 9 January 2013, Mrs H instructed RK of Fladgate to transfer the sum of £195,000, representing part refund of the Pictet monies, to the account of O Limited (BVI), a company of which YY, an Israeli lawyer, was a director. On 10 January 2013, the Respondent confirmed to Fladgate that Mrs H's instructions to hold the entirety of the £195,000 to the order of O Limited were accurate. This was despite the fact that in a letter to the SRA, the Respondent stated that "the whole involvement of [DA] and [YY] was not explained to me and I didn't understand what they were doing".

38.4 On 12 April 2013, £540,000 of the Pictet monies was released by the Swiss prosecutor to the Firm. However, Des Gouttes were again instructed by the Firm, with the knowledge of and acquiescence by the Respondent, to transfer these funds directly to Fladgate. On 15 April 2013, Mr H instructed Fladgate that "in accordance with the funding agreement between [O Limited] and [the Firm], we hereby irrevocably authorise Fladgate to transfer any funds received to the client account for the benefit of Rohrer to O Limited". On the same day, at 14:05 Fladgate confirmed to Mrs H, who according to the Respondent had by then ceased to have any involvement in the Firm that "the funds were released to O Limited". By email at 14:20, again on 15 April 2013, YY instructed Fladgate to make "the following urgent chaps transfers today: (1) an amount of £213,890 … to Lorells LLP…; (2) an amount of £160,000 … to [an account in the names of AG and RM H]…; (3) an amount of £10,000… to Fladgate on account of fees. All the remaining balance released to O Limited (circa. 156,000…)". The Respondent was aware of the fact that none of the £540,000 was paid back into the Firm's account but to Fladgates. He was also aware of the fact that some of the funds were paid over to Lorells LLP and were held by Lorells LLP on the basis that it was monies "owned by O Limited/CE". The Respondent was or should have been aware that £316,110 of the Pictet monies (£540,000 less £213,890 paid to Lorells LLP and less £10,000 paid to Fladgate) was paid over to Mr and Mrs H and YY.

38.5 Between 24 June and 20 December 2011, the Firm paid £12,693.95 to Checkmate Audits, a company of which Mr Schools was a director and shareholder between July 2006 and April 2012.

38.6 The Firm made two payments totalling £42,500 to "Mountivation", which appeared to be Mountivation Limited, a company owned by Mr Schools and his wife. The Respondent explained that these payments were in respect of a CPD course run for the Firm's fee earners out of a hotel in the French Alps run by Mr and Mrs H.

38.7 The Firm made payments totalling £1,999.85 for plane tickets to visit the Mountivation course.

38.8 Between April and July 2012, the Firm paid £18,000 together with a "bonus" of £100,000 recommended by DR (described as a "senior manager" of SSL and Tangerine to IA.

38.9 On 23 April 2013, it paid £20,000 to Mr SN for "consultancy" services provided "over the Christmas period". The Respondent told the SRA that Mr SN was "interested in coming in at a kind of higher management level" into the Firm and the Respondent intended to transfer his shares in the Firm to Mr SN.

38.10 The Firm paid £36,000 to a communications company between 1 February 2012 and 21 March 2013. This was explained by the Respondent as payments to a PR company made for getting the Firm's name "into certain media outlets".

38.11 Between 11 January 2012 and 24 May 2012, it made payments totalling £34,404 to GT. The Respondent could not explain these payments and stated that they could have been made without his knowledge.

38.12 The Firm paid £1,113.84 to MTP for the photographs on the Firm's website.

38.13 It paid £25,719.15 to Des Gouttes in respect of their fees for assisting the Firm to recover its £3 million investment in the "Provartis fund".

38.14 It paid £6,184.51 to ACL, £14,276.60 to ANL and £12,533.28 to ORO. None of these payments were explained by the Respondent.

38.15 It paid for litigation funding conference trips to Canada, Miami and Milan; and

38.16 Generally used the Axiom funds to pay the Firm's running costs, including payments to other consultants retained by the Firm and rent of £758,417.89 paid between May 2011 and March 2013.

39. Save for the discharge of certain invoices in connection with MY's divorce case, the Firm did not use any of the money for the purposes permitted by the PSSA or the PLFA.

The Firm's failure to repay the amount due to the Axiom Fund

40. On 26 February 2013, the solicitors acting for the Receivers sent a letter to the Firm demanding repayment of the monies that had been provided to it in the amount of £12,953,500 plus interest, on the grounds that the monies had not been used in accordance with the terms of the PLFA, which constituted a non-remediable event of default**.**

41. The Respondent informed the SRA that the Firm had never made any repayments to the Axiom Fund.

Witnesses

42. None.

Findings of Fact and Law

43. 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. Notwithstanding the Respondent's admissions to all allegations, the Applicant was required to prove all matters beyond reasonable doubt.

44. **Allegation 1.1 - The Respondent failed to exercise any control over the Firm and permitted it to be run by non-solicitors, Mr and Mrs H. Accordingly, he failed to run the Firm effectively in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the Principles and Outcomes 7.2, 7.3 and 7.4 of the SCC 2011. The Respondent thereby acted recklessly as to how the Firm was run by non-solicitors whom he allowed to inappropriately control the Firm; and/or without integrity, in breach of Principle 2 of the Principles; and behaved in a way that did not maintain the trust the public places in him and in the provision of legal services, in breach of Principle 6.**

44.1 The Respondent accepted in letters dated 7 September 2014 and 11 September 2015 that he failed to exercise any control over the management of the Firm and, as a result, allowed non-solicitors, specifically Mr and Mrs H, to exercise improper control and/or influence over the running of the Firm.

44.2 From 1 January 2012, the Respondent was the sole director and shareholder of the Firm. He informed the SRA that he was aware of his duties as set out in the SRA Handbook. Despite that awareness he failed to assert any control over the Firm's financial affairs and/or its compliance with the Principles, rules and outcomes and other requirements of the SRA Handbook and permitted consultants retained by the Firm and other third parties unconnected with the Firm, who were non-solicitors, to exercise inappropriate control over the Firm. In doing so, the Respondent failed properly to manage the Firm in accordance with proper governance and sound financial and risk management principles in breach of Principle 8 and Outcomes 7.2, 7.3 and 7.4. In particular:

44.2.1 He permitted the Firm to receive over £8 million of funding (resulting in a total liability of over £13 million) from the Axiom Fund knowing or being reckless as to the facts (i) that it would be unlikely to be able to repay it within 18 or 12 months (as required by the PSSA and the PLFA respectively) or (ii) that there was a serious risk that the Firm would be unable to repay the entirety of the sum due (i.e. the funds advanced plus interest) at all.

44.2.2 Whilst he was aware of the extent of funding the Firm was receiving from the Axiom Fund, he failed to ensure that the Firm's drawdown and use of that funding was carried out in accordance with the terms of the PSSA and PLFA, intended to protect the ultimate investors in the Axiom Fund. Instead the drawdown of the funds was arranged by Mr and Mrs H.

44.3 He did not appear to have been aware that Axiom funding was sought and obtained by the Firm in respect of claims by claimants who were not even signed up as clients of the Firm.

44.4 He permitted Axiom funding to be used for the purpose of making large payments to companies connected to Mr Schools, YY and Mr and Mrs H.

44.5 Whilst he informed the SRA that he reviewed the Firm's bank account statements, the Respondent was not aware of the extent of payments made by the Firm to various companies associated with Mr and Mrs H, never saw the invoices in respect of which the payments to HC were made and did not "directly authorise" those payments. In his interview with the SRA, the Respondent accepted that the payments made to Mr and Mrs H were high.

44.6 Payments totalling £67,398.39 were made to various entities; the Respondent informed the SRA that he did not know about those payments.

44.7 He was not aware of the services provided to the Firm by FFL; the Firm paid FFL £395,866.80 over a period of 12 months. Further, he did not provide any invoices pursuant to which the payments were made.

44.8 He did not have access to the Firm's client bank account statements, a number of files and client matter ledgers, and was not aware of which members of staff were employed by the Firm and which members of staff were employed by FFL.

44.9 He knew very little about the arrangements between the Firm and Cloudfinity and was not aware of the fact that Cloudfinity was part-owned by Mr H and that both Mr and Mrs H were directors of that company. He was unable to provide any agreements pursuant to which payments were made. Similarly, he knew very little about the arrangements between the Firm and SN and was unable to provide an invoice or a consultancy agreement pursuant to which the Firm paid £20,000 to SN.

44.10 He permitted the Firm to employ IA and pay him a bonus of £100,000. The Respondent understood that IA remained employed by "Checkmate" (presumably Check Mate Audits Limited), which undertook due diligence on cases taken on by Axiom-funded Firms. The Respondent explained that IA's role in the Firm was to "[liaise] with the fund in respect of monies that were advanced from the [Axiom]

Funds", yet he failed to carry out any checks as to whether IA was able to carry out his duties without any conflict.

44.11 The Respondent permitted £3 million of Axiom funds to be invested in a dubious investment scheme on the decision of Mr and Mrs H.

44.12 The Respondent asserted to the SRA that he and Mrs H were the sole signatories on the Pictet account based solely on what she told him, despite the fact that he had never signed any account opening documentation with Pictet. In fact there never existed a Pictet account in the Firm's name and the Pictet Monies were held in a different account.

44.13 The Respondent admitted that he personally had a very limited involvement in the recovery of the Pictet monies and was content to be provided with limited information by Mr and Mrs H, which was provided "only … when [Mr and Mrs H] needed me to sign a letter to Des Gouttes or to the Swiss Prosecutor".

44.14 The Respondent permitted Mr and Mrs H, and DA and YY (who not employed by the Firm), to give instructions as to the recovery and subsequent utilisation of the Pictet monies. In fact the great majority of the email communications and correspondence in relation to the recovery of the Pictet monies were sent to Mr and Mrs H and Mr DA and not the Respondent. In particular, well after the Respondent became aware of the "negative publicity surrounding the [Axiom] fund", he permitted the diversion of the sums of £195,000 and £540,000, representing part of the Pictet monies, away from the Firm and under the control of YY and DA. They then used it for their own purposes and for making a payment of £160,000 to Mr and Mrs H. Notably, the Respondent asserted that he was not told what DA's role in the Firm was and why DA was provided with a hot desk at the Firm's offices.

44.15 The Respondent permitted Mrs H to continue to be heavily involved in the retrieval of the Pictet monies, after she ceased to be retained by the Firm, her involvement having ended in March 2013. Throughout March and until June 2013 Mrs H, with the Respondent's knowledge, continued to instruct Des Gouttes in connection with the recovery of the Pictet monies, including giving instructions to transfer £540,000 of those monies. The Respondent failed to instruct Des Gouttes or Fladgates that as from March 2013 Mrs H was no longer working for the Firm and that all further instructions should be sought from him or another authorised representative of the Firm.

44.16 The Respondent knowingly permitted Mr H to mislead the Swiss prosecuting authorities, on behalf of the Firm, by instructing Des Gouttes to inform the Swiss authorities that the £540,000 released to the Firm on or around 12 April 2013 was allegedly used by the Firm "to permit us to operate for a month", despite being fully aware of the fact that none of the £540,000 was received or used by the Firm.

44.17 During the negotiations of the sale of the Firm by way of "pre pack" to Lorrells LLP, the Respondent was present at the Firm's offices whilst the negotiations were led by consultants and not employees, owners or directors of the Firm.

44.18 The Respondent was not aware of the reasons why companies linked to or owned by YY and DA were named as chargeholders on the Firm's Notice of Intention to appoint an administrator.

44.19 Despite apparently not being aware of the role of YY and DA, the Respondent permitted Mrs H to give instructions to transfer a sum of £195,000 (representing part of Pictet monies) to a company in which both YY and DA were involved, and personally confirmed such instructions on 10 January 2013.

44.20 The Respondent could not explain why certain funds were paid into and withdrawn from the Firm's office and client accounts by YY or entities associated with him in the absence of any underlying transactions supporting such payments and was unable to provide any evidence of any anti-money laundering checks.

44.21 Despite informing the SRA that Mrs H left the Firm in March 2013, the Respondent continued to seek her guidance in respect of a proposed quotation to a claims handling company regarding a loans swaps claim. On 8 April 2013, the Respondent introduced Mrs H to a prospective claims manager as the Firm's CEO.

44.22 As a consequence of the Respondent's misconduct:

44.22.1 the Firm improperly obtained from the Axiom Fund the net funding of at least £7,913,939 resulting in a total liability of £13,555,826 as of 31 October 2012 (plus further interest accruing from that date);

44.22.2 the Firm enabled Mr and Mrs H to obtain payments totalling at least £1,495,104.75 from the Axiom Fund's investors (not including any further proceeds of the Pictet monies);

44.22.3 the Firm enabled IA to obtain a payment of £118,000 including a £100,000 "bonus" from the Axiom Fund's investors;

44.22.4 the Firm enabled SN to obtain a payment of £20,000 from the Axiom Fund's investors;

44.22.5 the Firm enabled SSL/Tangerine and other companies connected to Mr Schools to obtain a Facilitation Fee equal to 50% of the amounts advanced to the Firm by the Axiom Fund;

44.22.6 the Axiom Fund lost the entirety of the funds advanced to the Firm which have not been repaid (save for the net sum of £1,763,942.53 which was recovered by Rohrer's Liquidator and which was the subject of an SRA Adjudication decision dated 21 October 2015);

44.22.7 YY and/or his company was permitted to use the sums of £195,000 and £540,000 representing partially recovered Pictet monies (which can be traced back to Axiom funding) for their own purposes, including for making a payment of at least £`160,000 to Mr and Mrs H;

44.22.8 YY was permitted to use the Firm's banking facilities for making unexplained payments and withdrawals of significant sums of moneys.

44.23 In acting as alleged, and in the full knowledge of his duties as set out in the SRA Handbook, the Respondent acted without integrity, in breach of Principle 2 of the SRA Principles 2011, and behaved in a way that did not maintain the trust the public places in him and in the provision of legal services, in breach of Principle 6. Further, his conduct was reckless. The Respondent accepted that his conduct was in breach of the Principles as alleged, and that his conduct had been reckless. Accordingly the Tribunal found allegation 1.1 proved beyond reasonable doubt on the evidence and admission. The Tribunal also found beyond reasonable doubt that the Respondent's conduct had been reckless.

45. **Allegation 1.2 - The Respondent caused or permitted the Firm to accept, and use, approximately £8,337,539 or, at least, £7,913,939 (net of a FF) from the Axiom Fund in circumstances where it was improper for the Respondent to do so for the following reasons (and each of them):**

1.2.1 he knew and/or was reckless to the fact that the Firm had not complied with the terms of the Panel Solicitors Services Agreement ("PSSA"), which the Respondent would have seen at least shortly after the receipt of the SRA's letter to the Respondent dated 18 June 2012; alternatively shortly after the first inspection visit into the Firm on 26 June 2012 and the Precedent Litigation Funding Agreement ("LFA") signed by the Respondent, pursuant to which the money was purportedly advanced. The terms of those agreements were intended to protect the interests of the Axiom Fund and of the ultimate investors in the Axiom Fund;

1.2.2 he knew and/or was reckless to the fact that the PSSA and the LFA pursuant to which the money was advanced did not reflect and were inconsistent with the purpose for which the Firm intended to use and/or in fact used the money, and that the intended and actual use of the money was not properly documented by the Respondent and the investment manager;

1.2.3 he knew or was reckless as to the fact that repayment by the Firm of the money advanced within the time required by (i) the PSSA, namely within 18 months of the loan advance, and (ii) the LFA, namely within 12 months from the date of the LFA, was very unlikely;

1.2.4 he misused the funds received by failing to apply them or failing to ensure that they were applied only towards "Fees and expenses", as required by the PSSA, or "Eligible Legal Expenses", as required by the LFA but instead paying (inter alia) sums totalling £1,495,104 to Mr and Mrs H and companies owned or operated by them between June 2011 and February 2013;

1.2.5 the Respondent knew or was reckless as to the fact that the money was advanced ostensibly for cases which the Firm was not permitted to handle due to lack of client authorisation or cases which were unlikely to succeed;

1.2.6 in light of the above circumstances and despite being on notice of the serious risk that the Axiom Fund's investment manager, in arranging for the money to be paid to the Firm, was acting fraudulently, or committing some other serious breach of duty, towards the Axiom Fund and/or its ultimate individual investors, he failed to carry out any or sufficient enquiries reasonably to satisfy himself that the advance of Axiom funding of around £8,337,539 to the Firm did not involve any such conduct by the investment manager;

1.2.7 he unreasonably risked the Firm being a party to a transaction in fraud of the Axiom Fund and/or its ultimate individual investors, or which involved other serious breach of duty by the investment manager towards them (or one of them); and/or

1.2.8 in all the circumstances, as the Respondent knew or suspected or would have known or suspected at least following the publication of various allegations against (inter alia) Axiom and Mr Schools in or around August 2012 had he not shut his eyes and ears to the obvious, the transaction pursuant to which the money was received had the hallmarks of being dubious, and the money should not have been accepted or used.

The Respondent thereby acted without integrity, in breach of Principle 2 of the Principles, and behaved in a way that did not maintain the trust the public places in him and in the provision of legal services, in breach of Principle 6.

45.1 It was submitted that the acceptance and use of the monies by the Firm gave rise to a breach of Principles 2 and 6 of the Principles on the part of the Respondent for eight main reasons:

45.1.1 Firstly, when each of the sums was received and/or used by the Firm, the Respondent knew that the Firm had not complied with the terms of the LFA which was intended to protect the interests of the Axiom Fund and the investors in the Axiom Fund. In particular, the Respondent knew that:

- the funds were not used for the purpose of paying permitted "fees and expenses" (as defined in the PSSA) or "Eligible Legal Expenses" (as defined in the LFA);

- the Firm had not provided Tangerine with the documents and other information that was a condition of drawing down sums in accordance with the LFA

- contrary to clause 4.2 of the LFA, the Firm had not paid the monies into a client account.

45.1.2 Secondly, at least since becoming the director of the Firm, when each of the sums set out in the table at paragraph 35 above was received and/or used by the Firm, the Respondent knew or was reckless as to the fact that the LFA and the PSSA did not reflect the purpose for which the Firm intended to use and was using the money, and that the intended and actual use of the monies was not properly documented by the Respondent and SSL/Tangerine. The Respondent also knew that the actual use of the funds by the Firm was inconsistent with the terms of the Offering Memoranda.

45.1.3 Thirdly, when each of the sums set out in the table at paragraph 35 above was received and/or used by the Firm, the Respondent knew or was reckless as to the fact that the Firm was very unlikely to repay these funds within 12 or 18 months, as specified in the LFA and PSSA respectively.

45.1.4 Fourthly, the Respondent misused the funds received by failing to apply them only towards permitted "fees and expenses" (as defined in the PSSA) or "Eligible Legal Expenses" (as defined in the LFA). Alternatively, the Respondent permitted Mr and Mrs H to misuse the funds by allowing them to make payments which included the transfer of sums totalling at least £1,495,104.75 to Mr and Mrs H and companies associated with them. The Respondent personally authorised the transfer of £195,000 despite admitting to not understanding why any moneys were to be paid.

45.1.5 Fifthly, the Respondent knew or was reckless as to the fact that the money was advanced ostensibly for cases which the Firm was not permitted to handle due to lack of client authorisation or cases which were unlikely to succeed (see paragraph 0 of allegation two).

45.1.6 Sixthly, the Respondent was on notice of the serious risk that SSL/Tangerine were acting fraudulently, or committing some other serious breach of duty, towards the Axiom Fund and the investors in the Axiom Fund. The Respondent would (and should) have recognised and understood the implications of the following indicia of possible fraud or other serious wrongdoing on the part of SSL/Tangerine:

- As the Respondent knew, SSL/Tangerine failed to ensure that the Firm complied with the terms of the PSSA and the LFA as regards both the purpose for which monies could be used and the manner in which they could be drawn down, and failed to properly document the provision of funding (see paragraph 0 above). Despite the large amount of money involved, and despite the fact that SSL/Tangerine was under a duty to act as a responsible investment manager, the arrangements put in place by Tangerine were extremely informal.

- As far as the Respondent was aware, SSL/Tangerine made no proper assessment of the cases for which the Firm obtained the funding or the Firm's ability to repay.

- The Respondent knew that under the terms of the LFA, which he signed, Tangerine (acting on behalf of the Axiom Fund) agreed to lend £30 million to a newly established Firm in the following highly suspicious circumstances (of which the Respondent was aware at least from September 2011 when he discussed becoming a director of the Firm):

    (a) Axiom investors were told that loans will be provided using strict criteria, including that each case carries ATE insurance, it must be easy to determine the likely success of each case and there is a high probability that a case can be completed in under a year (see paragraph 21 above);

    (b) Mr Schools was both a director of the Firm (until he was replaced by the Respondent) and the sole shareholder of SSL (the investment manager to the Axiom Fund) and Synergy (IOM) Ltd (the loan manager to the Axiom Fund) and was effectively responsible for the decision to fund the Firm using the monies obtained from the investors into the Axiom Fund;

    (c) Mrs H, the person responsible for negotiating the funding arrangements with the Axiom Fund on behalf of the Firm "had an involvement with [SSL], the Axiom Fund's investment manager]" and was retained by SSL as "an unpaid consultant". The Respondent therefore knew or should have identified that Mrs H had a potential conflict of interest between her duties to the Axiom Fund and its individual investors (in her capacity as the consultant to SSL) and her duties to the Firm and thus may not have been acting in the best interests of the Axiom Fund when arranging the drawdown of Axiom funds and utilising those funds for the purpose of making payments to herself, her husband and companies they were associated with, as well as companies and individuals associated with Mr Schools contrary to the terms of the PSSA and the LFA.

- It was the Respondent's apparent understanding that the permitted uses of Axiom funds were "a lot more flexible than is stated in the Agreement". Given the Respondent's knowledge of the terms of the PSSA and the LFA, the Respondent would also have known that any variation of the terms of the relevant agreements with the Axiom Fund ought to have been put in writing and signed on behalf of the Firm and the Axiom Fund.

- In all the circumstances, as the Respondent knew, the prudent approach to funding reasonably to be expected of an investment manager in SSL's/Tangerine's position was wholly absent.

- The Respondent should or ought to have been aware that large sums advanced by the Axiom Fund to the Firm were utilised by the Firm to make large payments to Mr and Mrs H and the companies associated with them and to the companies and individuals associated with Mr Schools and YY.

- The Respondent was aware of the FF and that SSL/Tangerine was entitled to at least some of that fee. That fee was suspicious because of:
    - its size (according to the PLFA it amounted to 50% of each loan);
    - the incentive that it gave SSL/Tangerine to lend recklessly on the Axiom Fund's behalf;
    - the resulting conflict between the interests of Tangerine and the Axiom Fund; and
    - the fact that it substantially increased the cost of funding to the Firm (thereby making the funding even riskier from the perspective of the Axiom Fund).
- The Responded acknowledged that a 50% fee is extremely high.
- The Respondent knew that SSL and subsequently Tangerine was acting as an investment manager on behalf of the Axiom Fund. He knew therefore that SSL/Tangerine were required to act within the scope of their authority and in the best interests of their principal (and of the ultimate investors). Any "understanding" that Axiom funds could be used for purposes other than those stated in the contractual documents could not have been reasonably held without confirming the same with the Axiom Fund in view of each of the abnormal and suspicious circumstances.
- The circumstances set out above singly and/or cumulatively put the Respondent on notice at all material times that there was serious risk that SSL/Tangerine, in arranging and purporting to agree the funding on behalf of the Axiom Fund, was exceeding its authority to act on behalf of the Axiom Fund and/or was not acting in good faith in the Axiom Fund's best interests and/or was taking unauthorised fees and/or was defrauding the Axiom Fund and its investors. The Respondent could not therefore properly cause or permit the Firm to accept and use the net sum of £8,337,539 without carrying out enquiries that reasonably satisfied him that SSL/Tangerine were acting within their authority, and in good faith in the best interests of the Axiom Fund, and that the Axiom Fund and the investors in the Axiom Fund were not being defrauded. From at least August 2012, the Respondent failed to make any enquiries in this regard (such as disclosing the material facts to the board of directors of the Axiom Fund, and obtaining information from the Axiom Fund that reasonably dispelled any suspicion concerning SSL/Tangerine and individuals associated with it). The Respondent deliberately refrained from making enquiries lest he learned something he would rather not know concerning SSL's/Tangerine's conduct.

45.1.7 Seventhly, in all the circumstances, the Respondent unreasonably ran the risks that:

- the Firm was a party to a fraud of the Axiom Fund and of the investors in the Axiom Fund, or that involved other serious breaches of duty by SSL/Tangerine;

- the Firm and individuals working on its behalf and/or connected to it were benefitting from SSL's/Tangerine's wrongdoing.

45.1.8 Eighthly, in all the circumstances, as the Respondent knew, from at least August 2012 the funding had the hallmarks of being dubious, and should not have been accepted or used.

45.2 In acting as alleged the Respondent acted without integrity, in breach of Principle 2 of the SRA Principles 2011, and behaved in a way that did not maintain the trust the public placed in him and in the provision of legal services, in breach of Principle 6.

45.3 The Respondent accepted that his conduct was in breach of the Principles as alleged. Accordingly the Tribunal found allegation 1.2 proved beyond reasonable doubt on the evidence and admission.

Dishonesty

45.4 The Respondent further admitted that by adopting this course of conduct and committing each of the breaches cited, he had acted dishonestly. He accepted that his actions were dishonest according to the test laid down in the case of Twinsectra v Yardley and others [2002] UKHL 12 ("Twinsectra"). Applying the Twinsectra test, the Tribunal found that there could be no doubt that the Respondent's conduct was objectively dishonest, and that he knew his conduct so to be. The Tribunal thus found that the subjective test was also satisfied and that dishonesty was proven beyond reasonable doubt as from after August 2012; indeed it was admitted. Given the Tribunal's finding of dishonesty, it did not consider whether the Respondent had been reckless in relation to this allegation.

46. **Allegation 1.3 - The Respondent failed to pay the money identified in allegation 1.2 into client account or, if he wrongly but honestly believed that it was office money, failed to pay it into an office account whose sole purpose was to hold the monies pending their use for an authorised purpose, and failed to keep adequate records of how the monies were spent, contrary to Principles 2, 6, 8 and 10 of the Principles and to rules 1.2(a), 1.2(b), 1.2(d), 1.2(e), 1.2(f) and 14.1 of the SARs.**

46.1 The monies provided under the PSSA and the LFA were not at the free disposal of the Firm, and could be applied only for purposes for which they were provided. The Applicant's case was that in the highly suspicious circumstances which prevailed the monies should not have been received at all.. However, having improperly received the monies, the Firm should have paid them into a client account, where they should have been held unless and until they were disbursed for a permitted purpose, thus giving effect to the intent of the Axiom scheme that law firms would not have to fund "fees and expenses" or "Eligible Legal Expenses" themselves. This was necessary because the monies were provided to fund permitted "fees and expenses" or "Eligible Legal Expenses" in respect of each claim and further or alternatively because they were subject to a Quistclose resulting trust. The monies were therefore client monies

within the meaning of rule 12 of the SARs. However, the Respondent held the monies in office account, in breach of rules 1.2(a), 1.2(b) and 14.1 of the SARs. In addition, the Respondent failed to ensure that the funds were spent only for permitted "fees and expenses" (as defined in the PSSA) or "Eligible Legal Expenses" (as defined in the PLFA) in breach of rule 1.2(d) of the SARs and to establish systems to ensure Axiom funds were used only for purposes permitted under the relevant agreements in breach of rule 1.2(e).

46.2 In addition, in respect of the £3,250,800 received specifically for the purpose of funding the MY divorce case, the Respondent failed to ensure that these funds (being subject to a Quistclose trust) were paid into a client account, or alternatively an appropriate designated office account, and used only for the purpose of funding MY's case. Instead at least £3 million of these funds were transferred for the ostensible purpose of "investing in the Provartis fund". Upon recovery of part of these funds, the Respondent authorised the payment of such funds to Fladgate, to be held to the order of a company whose role he admits not to understand. Such use (or rather misuse) of the monies advanced for the funding of the MY divorce case was reckless.

46.3 Alternatively, if the Respondent wrongly but honestly believed that the monies were not client monies, then he should have ensured that they were paid into an office bank account whose sole purpose was to receive the monies, where they would not be mixed with other office monies (and/or consequently utilised for general running expenses or dissipated by the account being in overdraft), and should have kept proper records to ensure that the funding was expended for an authorised purpose. The Respondent did neither of these things.

46.4 These breaches by the Respondent facilitated the wrongful use of the monies for purposes that were not authorised by the PSSA and the LFA.

46.5 The Respondent accepted that his conduct was in breach of the Principles and Rules as alleged, and further that his conduct was reckless. Accordingly the Tribunal found allegation 1.3 proved beyond reasonable doubt on the evidence and the admission. The Tribunal also found beyond reasonable doubt that the Respondent's conduct had been reckless.

47. **Allegation 1.4 - The Respondent assisted the misuse of the Axiom funds by the Axiom Fund's investment manager (Tangerine Investment Management Limited) and those persons associated with it, in particular, but not limited to Mr and Mrs H, despite being on notice from August 2012 of the serious risk that the investment manager and/or Mr and Mrs H were acting fraudulently, or, in case of the investment manager only, in breach of its mandate from the Axiom Fund or committing some other serious breach of duty, towards the Axiom Fund and the ultimate investors. The Respondent thereby acted without integrity, in breach of Principle 2 of the Principles, and behaved in a way that did not maintain the trust the public places in him and in the provision of legal services in breach of Principle 6.**

47.1 The Respondent assisted SSL/Tangerine and/or its associates such as Mr Schools, DR, Mr and Mrs H, YY and DA despite being on notice of the matters giving rise to serious concern that it was acting fraudulently or committing some other serious breach of duty towards the Axiom Funds and the investors, in the following ways:

- improperly allowing the Firm to receive the monies, in the manner described under allegation 1.2, in the knowledge that the funding would provide the pretext for a FF of 50%, and in fact enabling sums amounting to millions of pounds to be obtained by the investment manager and its associates such as Mr Schools, DR and Mr and Mrs H;

- failing to make any enquiries of the Axiom Fund and to alert it to the various matters giving rise to concern that SSL/Tangerine, and individuals acting for it, were acting fraudulently or committing some other serious breach of duty towards the Axiom Funds and the investors;

- permitting the Axiom funds advanced to the Firm for specific purposes to be diverted to, amongst others, YY, DA, Mr and Mrs H

47.2 As a result, in so far as SSL/Tangerine and Mr and Mrs H were acting fraudulently or otherwise improperly, the Respondent risked enabling these individuals to prolong and further benefit from their wrongdoing, to the detriment of the Axiom Funds and the ultimate investors.

47.3 The Respondent accepted that his conduct was in breach of the Principles as alleged. Accordingly the Tribunal found allegation 1.4 proved beyond reasonable doubt on the evidence and the admission.

Dishonesty

47.4 The Respondent's conduct concerning this allegation was dishonest by the standards of reasonable and honest people. As an experienced solicitor, he would have appreciated that it was dishonest by those standards. The Respondent admitted that as from after August 2012, his conduct was dishonest by ordinary standards, and he knew this to the case.

47.5 He accepted that his actions were dishonest according to the test laid down in the case of Twinsectra. Applying the Twinsectra test, the Tribunal found that there could be no doubt that the Respondent's conduct was objectively dishonest, and that he knew his conduct so to be. The Tribunal thus found that dishonesty was proven beyond reasonable doubt as from after August 2012; indeed it was admitted. Given the Tribunal's finding that the Respondent had been dishonest, it did not consider whether his conduct had been reckless.

48. **Allegation 1.5 - The Respondent permitted funds to be paid through the Firm's accounts in the absence of any underlying legal transaction and thereby acted in breach of Rule 14.5 of the SARs and Principle 8 of the Principles and Outcome 7.5 of the SCC 2011.**

48.1 The Respondent was the Firm's anti-money laundering officer since at least February 2013 and was fully aware of the rule in that a solicitor's client account could not be used by clients as a bare banking facility. Despite being fully aware of this rule, the Respondent permitted the following funds to be paid through the Firm's accounts in the absence of any underlying legal transaction:

48.2 The Firm received sums totalling £150,000 from DH into its office account on 12 April 2013 referenced as a "loan advance". On 18 April 2013, £150,000 was transferred from the Firm's office to its client account with reference "[D] Client" with a note "Return of loan advance received". On 26 April 2013, the sum of £150,000 was transferred from the Firm's client bank account with a reference "[DH] 021718 [LL]". DH was a company owned by YY and entered administration on 11 June 2013. The Respondent explained to the SRA that the funds received from DH did not in fact constitute a loan but a payment on account in respect of a case the Firm was going to run for that company. However, no file was ever set up for this matter and the Respondent failed to provide any evidence that due diligence or anti-money laundering checks were carried out prior to the receipt of £150,000 from DH or the transfer of those funds out of the Firm's account.

48.3 On 18 April 2013, the Firm received £171,110 from "Current acct 020595 CE" into its client account and transferred that sum into its office account on the same day. No client file or client matter ledger were provided to the SRA and the Respondent was unable to explain the receipt and transfer of this sum.

48.4 On 31 January 2013 the Firm received £125,000 into its client account ostensibly as payment on account in respect of a professional negligence claim against solicitors YY wished to bring. However, the ledger showed that out of the £125,000 received, £25,000 was paid to "MI" on 1 February 2013 with the balance (minus bank charges) being transferred to YY on 7 February 2013. The Respondent was unable to explain the relevance of MI and no due diligence on MI was contained on the Firm's client file. In response to the questions from the SRA, the Respondent stated that the £125,000 paid into the Firm's client account was in fact a loan from YY. No further information or documentation in respect of this alleged loan was received from the Respondent.

48.5 In permitting the above transactions to take place, the Respondent acted in breach of Rule 14.5 of the SARs and Principle 7 of the SRA Principles 2011 and Outcome 7.5 of the SRA Code of Conduct.

48.6 The Respondent accepted that his conduct was in breach of the Principle, SARs and the SCC 2011 as alleged. Accordingly the Tribunal found allegation 1.5 proved beyond reasonable doubt on the evidence and the admission.

Dishonesty

48.7 It was further submitted that by permitting the above transactions to take place in breach of Rule 14.5 of the SARs, of which the Respondent was fully aware, the Respondent acted dishonestly by the standards of honest and reasonable people. As an experienced solicitor, the Respondent would have appreciated that he acted

dishonestly by those standards. The Respondent admitted that as from after August 2012, his conduct was dishonest by ordinary standards, and he knew this to the case.

48.8 He accepted that his actions were dishonest according to the test laid down in the case of Twinsectra. Applying the Twinsectra test, the Tribunal found that there could be no doubt that the Respondent's conduct was objectively dishonest, and that he knew his conduct so to be. The Tribunal thus found that dishonesty was proven beyond reasonable doubt as from after August 2012; indeed it was admitted. Given the Tribunal's finding of dishonesty, it did not consider whether the Respondent's conduct had been reckless.

49. **Allegation 1.6 - The Respondent acted recklessly by giving false and/or misleading and/or delayed information to the SRA, contrary to Principles 2 and 7 of the Principles and Outcome 10.6 of the SCC 2011.**

49.1 The Respondent gave the following false and/or misleading and/or delayed information to the SRA:

49.1.1 On 9 November 2012, the Respondent informed the SRA that himself and Mrs H were the sole signatories on the Pictet account opened in the name of the Firm and which held the Pictet Monies. In fact, the Respondent had never signed any account opening documentation with Pictet in the name of the Firm, no account in the name of the Firm was ever opened at Pictet and the Firm's funds were held in an account in the name of Mr BS.

49.1.2 During the interview on 13 June 2013, the Respondent informed the SRA that the £125,000 paid into the Firm's client account on 31 January 2013 was a loan from CE. In fact, a separate loan of £100,000 from CE, a company owned by YY, was received by the Firm in two tranches on 21 and 31 January 2013 and paid into its office account.

49.1.3 Despite the fact that a representative of the SRA was present at the Firm's offices at the relevant time and the SRA investigation being ongoing, the Respondent failed to notify the SRA of the Firm's Notice of Intention to appoint an administrator issued on 22 May 2013, until 28 May 2013.

49.2 The Respondent accepted that his conduct was in breach of the Principles as alleged. He also accepted that his conduct had been reckless. Accordingly the Tribunal found allegation 1.6 proved beyond reasonable doubt on the evidence and the admission. The Tribunal also found beyond reasonable doubt that the Respondent's conduct had been reckless.

50. **Allegation 1.7 - The Respondent failed to undertake until the end of 2011 any due diligence in relation to its ATE insurance provider, Frion Insurance, to satisfy himself as to the validity of the policies the Firm obtained on behalf of its clients despite the warning notice placed in the Law Society website notifying that insurance provided by Frion was not underwritten by HSBC plc, as claimed in Frion's policy documentation. Accordingly, the Respondent acted contrary to his core duties pursuant to rules 1.04 and 1.05 of the Solicitors' Code of Conduct 2007 and/or Principles 4 and 5 of the Principles.**

50.1 On 25 March 2010, the Law Society placed a warning notice on its website notifying that insurance provided by LLPP Insure Ltd (which became known as Frion) was not underwritten by HSBC plc, as claimed in Frion's policy documentation.

50.2 The Respondent admitted that he was not aware of the relevant warning notice and only became aware of problems with Frion insurance in November 2011. Accordingly, until November 2011, the Respondent unreasonably risked his clients' funds by failing to verify whether the ATE insurance purchased for clients by his Firm was valid and effective. In doing so, the Respondent acted contrary to rules 1.04 and 1.05 of the Solicitors' Code of Conduct 2007 and/or Principles 4 and 5 of the SRA Principles 2011.

50.3 The Respondent accepted that his conduct was in breach of the Principles and the Rules as alleged. Accordingly the Tribunal found allegation 1.7 proved beyond reasonable doubt on the evidence and the admission.

Previous Disciplinary Matters

51. None.

Mitigation

52. The Tribunal read in detail the mitigation statement dated 24 March 2016 submitted by the Respondent, which fully and comprehensively informed the Tribunal of the Respondent's circumstances at the time of the misconduct. In considering the mitigation advanced, the Tribunal paid particular regard to the following points:

- The Respondent had no prior experience of running a practice;
- He had no previous experience of financial management or strategic decision making roles;
- He had no previous experience of litigation funding;
- He was reliant on the experience of Mrs H, whom he considered to be a vanguard in the area of legal funding;
- Despite being the Director and sole shareholder in the Firm, the Respondent did not have control of the Firm or its finances;
- The Respondent was seeking to grow the Firm and to work with non-lawyers for the benefit of the Firm;
- He accepted that his actions and in some cases, inaction, made the situation worse and that his conduct would "not stand up to interrogation in the cold light of day";
- He was remorseful for his conduct and apologised to those affected by his conduct;

- The Respondent was naive in his dealings with others rather than actively fraudulent.

Sanction

53. 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.

54. The Tribunal found that the Respondent was completely culpable and responsible for his conduct. His motivation was not primarily for personal and professional gain but he felt he was providing funding for those who were unable to litigate without it. . He wanted to build a multiservice business. His misconduct arose as a result of his inaction, naivety and passive nature. The Respondent had allowed himself to be misled by those that he trusted; he was lulled into a false sense of security and felt obligated to them. However, when he was given reason to distrust them, the Respondent did nothing and allowed matters to get worse by his inaction. He failed to comply with his regulatory duties; he ignored the very clear indicia of fraud and mismanagement of the Axiom monies. The Tribunal found that the harm caused by the Respondent's proven and admitted misconduct was significant, both to the investors who lost money, and the reputation of the profession; members of the public would be extremely concerned to know that a solicitor had deliberately not asked questions and simply carried on, despite awareness that the reputation of those he was working with, and who were managing the practice, was questionable.

55. The Respondent's conduct was aggravated by his proven and admitted dishonesty, which was in material breach of his obligation to protect the public and maintain public confidence in the reputation of the profession; as per Coulson J in Solicitors Regulation Authority v Sharma [2010] EWHC 2022 Admin ("Sharma"):

> "34. There is harm to the public every time that 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"."

56. The Respondent's misconduct was further aggravated by its continuance over a significant period of time, and his failure to act when he became aware of the nature of those with whom he was working.

57. The Tribunal were impressed with the Respondent's insight into his misconduct and the large degree of remorse expressed by him in both his documents, and in person. The Tribunal found this to be a sad case in which the Respondent had accepted a position in a Firm for which he was unfit and where he became the sole director and shareholder. These positions conferred additional responsibilities and duties upon the Respondent which he did not appreciate nor fulfil. The Tribunal considered that the public would expect a solicitor to have acted with greater caution and awareness in this regard. His Firm was effectively controlled by persons which he later knew to be

of dubious honesty. He allowed those persons to misappropriate client funds in excess of £8 million, the vast majority of which remained outstanding. The Respondent had co-operated with the Applicant from the outset of the investigation to the conclusion of the proceedings, and was continuing to fulfil his promised instalment payments for the intervention costs despite his limited means.

58. The Tribunal had regard to the cases of Bolton v Law Society [1994] 1 WLR 512 CA, Bultitude v Law Society [2004] EWCA Civ 1853 and SRA v Sharma [2010] EWHC 2022. It was clear from the case law that the usual and proportionate sanction in a case of dishonesty was a striking off order, save where there were exceptional circumstances. The Tribunal had found multiple dishonesty findings in relation to the Respondent. The Tribunal had regard to the previous unblemished record of the Respondent. The Respondent did not submit, and the Tribunal did not find, any exceptional circumstances in this case. The only appropriate and proportionate sanction, in order to protect the public, and maintain public confidence in the integrity of the profession and the provision of legal services, was to order that the Respondent be struck off the Roll.

Costs

59. The Applicant applied for an order for costs against the Respondent. The costs of the Applicant were agreed between the parties at £20,838.97. The Tribunal reviewed the Applicant's schedule of costs and determined that the agreed amount was an appropriate figure, and ordered costs in the agreed sum.

Statement of Full Order

60. The Tribunal Ordered that the Respondent, CHRISTOPHER TOMOS HALE, 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 agreed sum of £20,838.97.

Dated this 20th day of July 2016
On behalf of the Tribunal

A. G. Gibson
Chairman