SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 — Case No. 11530-2016

BETWEEN:

SOLICITORS REGULATION AUTHORITY	Applicant
and	
JOHN ALLAN JONES	First Respondent
LUCINDA JANE ROSEMARY ROWBERRY	Second Respondent

Before:

Ms A. E. Banks (in the chair)
Mr J. Evans
Dr S. Bown

Date of Hearing: 23-24 May 2017

Appearances

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

The First Respondent did not attend and was not represented.

The Second Respondent attended and represented herself.

JUDGMENT

Allegations

The allegations against the First and Second Respondents made by the Applicant were set out in an Amended Rule 5 Statement dated 3 October 2016 and a Rule 7 Statement dated 27 February 2017.

Rule 5 Statement

1. The allegations made against the First and Second Respondents were that:-

1.1 By improperly transferring, or allowing to be transferred, the sum of £17,400 on 31 October 2013 and/or the sum of £39,700 on 2 December 2013 from the client account of Carver Jones, a firm of which they were each Principals, ("the Firm") to that Firm's office account they each breached any or all of:

1.1.1 Principle 2 of the SRA Principles 2011 ("the Principles");

1.1.2 Principle 6 of the Principles;

1.1.3 Rule 1.2(a) of the SRA Accounts Rules 2011 ("SAR");

1.1.4 Rule 1.2 (c) of the SAR;

1.1.5 Rule 20.1 of the SAR; and/or

1.1.6 Rule 20.3 of the SAR.

1.2 By transferring the sums of £4,200, £3,600, £2,400 and £3,600 from the Firm's client account to the Firm's office account in February, March, June and August 2014 on account of costs but before sending a bill of costs or other written notification to the relevant client they each breached any or all of:

1.2.1 Principle 2 of the Principles;

1.2.2 Principle 6 of the Principles;

1.2.3 Rule 17.2 of the SAR;

1.2.4 Rule 20.1 of the SAR; and/or

1.2.5 Rule 20.3 of the SAR.

1.3 By failing to remedy the consequent shortage on the client account arising from the transfers which were the subject of the allegations made against them in paragraph 1.1 and 1.2 they each breached Rule 7.1 SAR.

1.4 During the period October 2013 (at the latest) to October 2014 (at the earliest), they failed to keep accounting records properly written up to show the Firm's dealings with client money and thereby each breached any or all of:

1.4.1 Principle 7 of the SRA Code of Conduct 2011 ("SCC");

1.4.2 Principle 8 of the SCC; and/or

1.4.3 Rule 29.2 of the SAR.

The allegations made against the First Respondent only were that:

2.1 In advising a Forensic Investigation Officer ("FIO") in the employment of the SRA on 26 October 2015 that the matters relating to Mr BF (deceased), Mr DA (deceased), Mrs MI (deceased) and Mr NS (deceased) had been resolved and that invoices had been sent out when he knew this was not true, he breached any or all of:

2.1.1 Principle 2 of the Principles;

2.1.2 Principle 6 of the Principles; and/or

2.1.3 Principle 7 of the Principles.

2.2 In transferring costs/raising an invoice in respect of his client Mr BF (deceased) in August 2014, for an amount which he knew to be in excess of the amount which was properly due, he breached any or all of:

2.2.1 Principle 2 of the Principles;

2.2.2 Principle 4 of the Principles; and/or

2.2.3 Principle 6 of the Principles.

2.3 In preparing invoices for clients and/or transferring monies from the Firm's client account to its office account without undertaking any substantive evaluation as to the level of work that could be reasonably charged to the client, he breached any or all of:

2.3.1 Principle 2 of the Principles;

2.3.2 Principle 4 of the Principles;

2.3.3 Principle 5 of the Principles; and/or

2.3.4 Principles 6 of the Principles.

3. Dishonesty was alleged against the First Respondent with respect to allegations 1.1, 1.2, 2.1 and 2.2. Proof of dishonesty was not an essential ingredient for proof of any of the allegations.

Rule 7 Statement

The further allegations made against the First and Second Respondents, by the SRA were that:-

2.1 By using, or allowing to be used, between 24 July 2015 and 13 June 2016, the sum of £87,252.20 received into the Firm's client account in respect of its client IPHL for purposes other than for that client's matter they each breached, or failed to achieve, all or any of:

2.1.1 Principle 2 of the Principles;

2.1.2 Principle 6 of the Principles;

2.1.3 Rule 14.3 of the SAR and

2.1.4 Rule 20.1 of the SAR.

2.2 On 17 December 2014 they withdrew, or arranged to be withdrawn, the sum of £21,000 from the Firm's client bank account purportedly for their client Mrs AS, which was not subsequently accounted for to that client, resulting in a shortage on client account for that sum and therefore breached, or failed to achieve, any or all of:

2.2.1 Principle 2 of the Principles;

2.2.2 Principle 6 of the Principles;

2.2.3 Principle 10 of the Principles; and

2.2.4 Rule 14.3 of the SAR.

The allegation made against the First Respondent only was that:

3. Shortly before 17 December 2014 by instructing the Second Respondent to withdraw the sum of £21,000 in cash from the Firm's client bank account and carry it back to the Firm's offices without taking adequate or any steps to safeguard that money, he breached Principle 10 of the Principles.

The allegation made against the Second Respondent only was that:

4. On 17 December 2014, by withdrawing the sum of £21,000 in cash from the Firm's client bank account and carrying the same to the Firm's office without taking adequate or any steps to safeguard that money she breached Principle 10 of the Principles.

Documents

5. The Tribunal considered all the documents in the case which included:

Applicant

- Application dated 1 July 2016
- Amended Rule 5(2) Statement with exhibit EP1 dated 3 October 2016
- Rule 7 Statement with Exhibit EP2 dated 27 February 2017
- Forensic Investigation Report of Richard Esney dated 17 December 2015

- Witness Statement of Richard Esney dated 13 October 2016
- Witness Statement of Mrs AS dated 5 April 2017
- Witness Statement of Mrs LB dated 12 April 2017
- Witness Statement of Mr LB dated 16 April 2017
- Costs Schedules dated 1 July 2016 and 17 May 2017

First Respondent

- First Respondent's Answer to the Rule 5 Statement dated 21 September 2016
- Character Reference from Jim Lee of Gabbs Solicitors dated 19 January 2017

Second Respondent

- Second Respondent's Answer to the Rule 5 Statement dated 27 July 2016
- Second Respondent's Answer to the Rule 7 Statement dated 15 March 2017
- Second Respondent's Amended Answer to the Rule 7 Statement dated 28 April 2017
- Emails in relation to the client account balance dated 26 and 27 April 2017
- Statement of Means plus supporting documentation dated 24 April 2017

Preliminary Matter- Application to Proceed in Absence

The Applicant's Application

6. The First Respondent did not attend the hearing and the Applicant applied to proceed in his absence. Mr Bullock, representing the Applicant, submitted that the First Respondent had been given notice of the date of the hearing on at least three occasions. The Tribunal had written to him on 1 February 2017 and the Applicant had written to him on 18 April 2017 and 2 May 2017. The Applicant knew that the First Respondent was aware of the hearing as the First Respondent had telephoned Ms Priest (the solicitor with conduct of the matter for the Applicant) on 15 May 2017 and told her that he was not going to attend as he could not afford the train fare.

7. Mr Bullock asked the Tribunal to find that the First Respondent had knowledge of the hearing and that he had voluntarily absented himself. It was not uncommon for solicitors in dire financial straits to scrape together sufficient funds to attend the Tribunal. If the hearing was adjourned until another date there was no evidence that the First Respondent would attend the adjourned hearing. It was in the interests of justice to proceed.

The First Respondent's Position

8. The First Respondent had not engaged with the proceedings for some time and had not informed the Tribunal that he would not be attending the hearing. The Tribunal noted that the First Respondent had told Ms Priest that he was not going to be in attendance.

The Second Respondent's Position

9. The Second Respondent opposed any adjournment. In her view the First Respondent had had sufficient notice and if he had wanted to attend he could have found a way to do so. The proceedings had been going on for a long time and she wanted them concluded.

The Tribunal's Decision

10. Rule 16 (2) of The Solicitors (Disciplinary Proceedings) Rules 2007 ("SDPR") states:

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

11. The Tribunal was satisfied that the Respondent had been served with the proceedings and notified of the hearing. Although the Tribunal's letter of 1 February 2017 had been sent to the Respondent's previous address the Applicant had written to him on 17 February 2017 at his new address and that letter had confirmed the hearing dates and enclosed a copy of the Tribunal's letter of 1 February 2017. In his telephone conversation with Ms Priest the First Respondent had told her he was not going to attend the hearing and it followed that he was fully aware of the proceedings and the hearing.

12. The First Respondent had not engaged with the proceedings since about the time he filed his Answer. He had initially instructed solicitors but they had been without instructions for some time. The First Respondent had not served a Reply to the Rule 7 Statement which had been served on him. There was no evidence that if the Tribunal adjourned the hearing that the First Respondent would engage. He had chosen not to actively participate in the proceedings.

13. The Second Respondent opposed any adjournment and the Tribunal also had to consider the impact on her if the hearing did not proceed. Both the First and Second Respondent were entitled to a fair trial in accordance with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

14. The Tribunal carefully considered all of the information before it and the guidance in General Medical Council v Adeogba [2016] EWCA Civ 162. The discretion whether or not to proceed in the First Respondent's absence was one that had to be exercised having regard to all the circumstances of which the Tribunal was aware including fairness to the First Respondent. The Tribunal also had to consider what was fair to the Applicant and the Second Respondent.

15. The Tribunal concluded that there was no evidence that the First Respondent would engage with the proceedings or attend a hearing on another date if the hearing did not proceed. The Second Respondent was present and in the interests of justice the proceedings against her should not be delayed unnecessarily. The Tribunal was

satisfied that the First Respondent had voluntarily absented himself and that it was appropriate to proceed in his absence.

Preliminary Matter- Application to Withdraw Allegation 2.1.4 (Rule 7 Statement)

16. Allegation 2.1 of the Rule 7 Statement related to the sum of £87,252.20. Allegation 2.1.4 alleged that the First and Second Respondents had breached Rule 20.1 of the SAR in respect of this money. Under Rule 20.1 it was permissible for the monies to be transferred to another client account. It had recently come to light that the monies had in fact been transferred to the successor practice and were now with the solicitors acting in the Intervention. In the circumstances the Applicant sought leave to withdraw this allegation. The application was supported by the Second Respondent and the Tribunal gave leave for the allegation to be withdrawn.

Preliminary Matter- Application to Amend a Date in the Rule 7 Statement

17. Allegations 2.2, 3 and 4 of the Rule 7 Statement referred to the date of 17 December 2015. This was a typographical error and should have been 17 December 2014. There was no dispute that the trip to the bank to which these allegations related took place in December 2014 not 2015. The Applicant sought leave to amend the date in relation to this event from 2015 to 2014 wherever it appeared in the Rule 7 Statement. The Second Respondent had no objection to this application and the Tribunal gave leave for the date to be amended.

Factual Background

18. The First Respondent was born in September 1945 and was admitted to the Roll of Solicitors on 15 November 1972. At the date of the Rule 5 statement, the First Respondent remained upon the Roll of Solicitors and he had a practising certificate for the period 2015-2016 free from conditions. That practising certificate was suspended due to the First Respondent's bankruptcy.

19. The Second Respondent was born in December 1950 and was admitted to the Roll of Solicitors on 15 April 1975. At the date of the Rule 5 statement, the Second Respondent remained upon the Roll of Solicitors and she had a practising certificate for the period 2015-2016 free from conditions. That practising certificate was suspended due to the Second Respondent's bankruptcy.

20. At all material times the First and Second Respondents were partners in the Firm, with the First Respondent being a partner from 1 September 2002 until 14 December 2015 and the Second Respondent being a partner from 1 September 2006 until the Firm's closure (save for the period 1 October 2004 until 31 August 2006 when she was a consultant there). The Firm formally closed on 9 December 2015 prior to the Respondents being declared bankrupt on 14 December 2015.

21. The First Respondent was appointed as the Firm's Compliance Officer for Finance and Administration ("COFA") on 10 December 2012, on which date the Second Respondent was appointed as the Firm's Compliance Officer for

Legal Practice ("COLP"). Both Respondents held these roles until the Firm's closure in December 2015.

22. As a result of two separate reports regarding the management of the Firm's client and office accounts, the Supervision Department of the SRA commissioned an investigation into the Firm because of concerns regarding compliance with the SAR. On 26 October 2015 the FIO commenced an inspection of the books of accounts and other documents of the Firm at the Firm's offices ("the Inspection"). The Inspection culminated in a Forensic Investigation Report dated 17 December 2015 ("the FIR"). The allegations against the First and Second Respondents as set out in Rule 5 Statement arose out of the content of the FIR.

23. On 9 February 2016 the SRA sent Explanations with Warnings ("EWW") letters to the First and Second Respondents asking for their response to the allegations against them by 25 February 2016. The First Respondent provided his response to the allegation by email dated 24 February 2016. The Second Respondent provided her response by letter dated 22 February 2016, emailed to the SRA on 24 February 2016.

24. On 9 June 2016 a Decision was made by a Panel of Adjudicators to intervene into the closed practice of the Firm. The closed practice of the Firm was intervened into on 13 June 2016.

25. On 9 December 2016 the SRA sent additional EWWs to the First and Second Respondents ("the Second EWWs") asking for their response to the additional allegation against them by 28 December 2016. On 16 December 2016 the Second Respondent provided her response to the allegation against her in the Second EWW. On 20 January 2017 the SRA sent further EWWs to the First and Second Respondents ("the Third EWWs") asking for their response to the further allegations put to them by 6 February 2017. On 31 January 2017 the Second Respondent provided her response to the Third EWW. The First Respondent did not respond to the Second or Third EWWs.

Witnesses

26. The Second Respondent gave oral evidence to the Tribunal. The Tribunal found her to be a credible witness.

27. The First Respondent did not attend. Practice Direction 5 provides that where a Respondent denies some or all of the allegations against him (regardless of whether it is alleged that he has been dishonest), and/or disputes material facts, and does not give evidence or submit himself to cross-examination, the Tribunal shall be entitled to take into account the position that the Respondent has chosen to adopt as regards the giving of evidence when reaching its decision in respect of its findings. The direction applied regardless of the fact that the Respondent may have provided a written signed statement to the Tribunal. Although it was open to the Tribunal to draw an adverse inference from the fact that the First Respondent did not attend and therefore neither gave evidence nor submitted himself to cross-examination the Tribunal did not do so.

28. The written and oral evidence of the witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

Findings of Fact and Law

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

Rule 5 Statement

30. **Allegation 1.1 - By improperly transferring, or allowing to be transferred, the sum of £17,400 on 31 October 2013 and/or the sum of £39,700 on 2 December 2013 from the client account of the Firm of which they were each Principals, to that Firm's office account the First and Second Respondents each breached any or all of:**

1.1.1 Principle 2 of the Principles;

1.1.2 Principle 6 of the Principles;

1.1.3 Rule 1.2(a) of the SAR;

1.1.4 Rule 1.2 (c) of the SAR;

1.1.5 Rule 20.1 of the SAR; and/or

1.1.6 Rule 20.3 of the SAR.

The Applicant's Case

30.1 Rule 1.2 (a) and (c) of the SRA Accounts Rules 2011 states that:

> "You must comply with the Principles set out in the Handbook, and the outcomes in Chapter 7 of the SRA Code of Conduct in relation to the effective financial management of the firm, and in particular must:
>
> (a) keep other people's money separate from money belonging to you or your firm;
>
> (c) use each client's money for that client's matters only"

30.2 Rule 20.1 of the SRA Accounts Rules 2011 sets out the circumstances in which client money can be withdrawn from a client account. Rule 20.3 of the SRA Accounts Rules 2011 sets out the circumstances in which office money can be withdrawn from client account.

30.3 During a meeting with the FIO on 26 October 215 the First Respondent provided the FIO with a handwritten list entitled "The problem transfers out of the office account" which he identified as being matters where client to office transfers had been undertaken without a bill being raised ("the List"). The List identified the following transfers:

- £17,400.00 on 31 October 2013
- £39,700.00 on 2 December 2013
- £4,200.00 on an unknown date in February 2014
- £3,600.00 on an unknown date in March 2014
- £2,400.00 on an unknown date in June 2014
- £3,600.00 on an unknown date in August 2014

30.4 The FIO asked the First Respondent to provide further details of the two largest transfers, being £17,400 and £39,700 (which totalled £57,100). The First Respondent advised that he believed that the £39,700 transfer related to a client matter named C but could not be definitive while the transfer of £17,400 was likely to relate to "several" matters but again could not be definitive. On 27 October 2015 the FIO met with the First and Second Respondents and sought further details regarding the transfers totalling £57,100. The First Respondent stated that he was trying to identify to which matters the transfers related, and further stated that he had "calculated the entitlement in my own mind". When the FIO stated that this explanation was at odds with the First Respondent's comment that he was now unable to identify the matters to which the transfers related the First Respondent repeated that he was unable to identify the relevant matters.

30.5 The following day the First Respondent advised the FIO that he had been unable to identify the transfers and accepted that no bill had previously been raised in relation to the sums transferred. The First Respondent further stated that he would be able to identify which client matters related to the transfers, but that he would "need to do further investigation" and could not "come up with a decent answer" at the moment. He admitted that the transfers had been undertaken by the accounts department of the Firm at his request.

30.6 In the circumstances, the sums transferred had not become office monies (because no bill had been raised in accordance with Rule 17.2 SAR) and their transfer from client account was therefore not permitted under Rule 20.1 SAR. The First and Second Respondents breached Rule 20.3 of the SAR, and further failed to keep other people's money separate from money belonging to them or the Firm, and further failed to use client's money for that client's matters only, and therefore breached Rules 1.2(a) and (c) of the SAR.

30.7 If the Tribunal found breaches of the SAR proved against the First Respondent then the Tribunal had to find them proved against the Second Respondent as Rule 6 of the

SAR required that all principals in a Firm must ensure compliance with the Rules by the principals themselves and by everyone employed in the firm.

30.8 A solicitor of integrity would understand that client money held on client account belonged to others and was therefore to be treated as sacrosanct. They would be astute to ensure that sums were not transferred into office account otherwise than for the purposes of a payment properly due to the solicitor. Under no circumstances would such a solicitor give instructions to others for such money to be transferred to the office account otherwise than for the purposes of such a payment. If they discovered that such a transfer had been effected upon the instructions of their partner then they would immediately give instructions for that transfer to be countermanded. Moreover, the improper transfer of a sum of money by a solicitor to which that solicitor was not entitled would necessarily impair the good repute of, and diminish the trust the public placed in, both the solicitor and the profession.

30.9 In respect of the test for lack of integrity Mr Bullock submitted that the recent decision of Mostyn J in Malins v Solicitors Regulation Authority [2017] EWHC 835 (Admin) was wrong and that it should not be followed. That case had held that dishonesty and lack of integrity were one in the same thing. In the case of Scott v Solicitors Regulation Authority [2016] EWHC 1256 (Admin) it was held that lack of integrity and dishonesty were not the same. Scott was binding on Mostyn J and if he thought that decision was wrong he should have granted leave for Scott to be appealed.

30.10 Mr Bullock argued that Malins should not be followed and that the previous line of authorities should be followed. He invited the Tribunal to apply the test as set out in Scott which he paraphrased as being equivalent to the fact that no-one can describe what the elephant looks like but you recognise it when you see it. Mr Bullock referred the Tribunal to paragraph 20.14 the Solicitor's Handbook 2017 (edited by Hopper QC and Treverton-Jones QC) which stated:

> "In one case before the Tribunal, counsel agreed that 'lack of integrity' could be summarised as a deliberate or reckless breach of professional rules falling short of dishonesty, and it is submitted that this is as good a working definition as any, where the lack of integrity is said to arise from non-observance of particular rules."

30.11 Mr Bullock submitted that if the Tribunal found dishonesty proved in respect of this allegation then it would have to find that the First Respondent had breached Principles 2 and 6. In transferring money from client account without adequate enquiry and without bills being raised, even if the First Respondent was not dishonest, he was clearly acting without integrity and failing to display proper adherence to an ethical code.

30.12 In respect of the Second Respondent and the question of lack of integrity this was a small two partner Firm, it was not a large entity with a dedicated finance department that dealt with all financial matters. The Second Respondent knew of the shortage because she had seen and signed the reconciliation statements. She should have been on top of the accounts and what was happening.

The First Respondent's Case

30.13 The First Respondent admitted the allegation but denied dishonesty.

The Second Respondent's Case

30.14 The Second Respondent admitted allegations 1.1.3 to 1.1.6 on the basis of strict liability as she had been a partner in the Firm. However she denied allegations 1.1.1 and 1.1.2. The Second Respondent had only become aware of what the First Respondent had done after it had happened. She was not consulted beforehand.

30.15 The last client reconciliation that the First Respondent had signed was the one for December 2013, at the start of January 2014. The Second Respondent had not been the COFA. The Second Respondent said that her mathematical skills were so bad that no-one would put her in charge of the financial side even if their life depended on it. The reconciliations had been prepared and presented to her for signature. Up until September 2013 there had been no problems, even the Second Respondent could tell that and she was happy to sign the reconciliations even though this was not her job.

30.16 October 2013 was when the problem arose. The transfer was made on the last working day of the month and the reconciliation was given to the Second Respondent for signature at the beginning of November 2013. It showed the £17,400 and the Second Respondent "had words" with the First Respondent who promised he would put it right. The First Respondent had assured her that he would immediately submit bills for work undertaken which would equal or exceed that amount. The First Respondent made similar assurances the following month when the deficit had not been rectified. However it was not rectified.

30.17 When the Second Respondent was given the December 2013 reconciliation for signature the £39,700 was shown. This transfer had been made at the start of December 2013. The Second Respondent told the First Respondent that she was not going to sign any more reconciliations while the sums were unaccounted for and he had to put it right. The Second Respondent could not rectify it herself and accepted that it was very bad that it was not put right. She had been promised by the First Respondent that it would be put right and it never was. By that point the First Respondent was divorcing and told the Second Respondent that in the worst case he would put money in from the sale of the home but everything went pear shaped and that never happened.

30.18 The Firm was small and there was an awful lot to do. The Second Respondent seemed to be doing everything, all the administrative bits and pieces. She had been the COLP. She had made sure that the rules and regulations were observed as far as she could.

30.19 The Firm had had an accounting system, the Second Respondent had never made any entries or transfers. She did not know how to do so. The reconciliations had shown there was a problem but she had had no means of putting it right.

30.20 Mr Bullock asked the Second Respondent why, when she was aware of the issues with client account by January 2014, she did not put in place procedures that would have restricted the First Respondent's access to client account. The

Second Respondent explained that she did not do so as she believed and trusted that the First Respondent would sort it out. The Second Respondent accepted that with hindsight it would have been good to put restrictions in place but practically it would have been quite hard to do as these were transfers made on instructions given to the cashier, it was not like stating that you needed two signatures on a cheque. It would have been possible to say that any transfer over £500 or £1,000 required two signatures.

30.21 The Second Respondent did not know what had happened but it seemed that the First Respondent's practice had fallen apart at the seams. This was not excusable. With the benefit of hindsight the Second Respondent acknowledged that she had not done what she needed to do and that it had not been a good idea to put the First Respondent in sole charge of the reconciliations. However he did not prepare these, the cashier did and he only signed them. The Second Respondent knew from looking at the reconciliations, with the FIO, that the transfers were listed and the outstanding balance stated.

30.22 Had the Second Respondent continued to look at the reconciliations after January 2014 she would have seen that it had not been put right and would have impressed on the First Respondent the need to put it right. Mr Bullock asked the Second Respondent whether she saw now that she was enabling the First Respondent to make transfers without her keeping check and the Second Respondent accepted that this had been the case.

30.23 The Second Respondent was provided with a copy of the case of Malins. There were no submissions that she wished to make in light of this Judgment. She denied that she had lacked integrity.

The Tribunal's Findings - First Respondent

30.24 The First Respondent admitted the allegation but denied dishonesty. As the First Respondent was not present at the hearing to clarify whether his admissions included an admission to breach of Principles 2 and 6 the Tribunal treated allegations 1.1.1 and 1.1.2 as denied. The Tribunal found allegations 1.1.3 to 1.1.6 proved beyond reasonable doubt. The First Respondent had made the transfers, he accepted that he had made them and had not complied with the various provisions of the SAR as set out in allegations 1.1.3 to 1.1.6.

30.25 The Tribunal considered the position in respect of the question of lack of integrity. The Tribunal adopted the approach as set out in Scott rather than the approach as set out in Malins. For the avoidance of doubt the same approach was taken in respect of any alleged breach of Principle 2 for either Respondent.

30.26 The First Respondent had made the two transfers without raising bills and without being able to clearly set out to what matters he had attributed the transfers. The Tribunal found that in acting in this way the First Respondent had clearly acted without integrity. It was obvious to the Tribunal that the Respondent's actions lacked integrity, the Tribunal recognised a lack of integrity when it saw it. Allegation 1.1.1 was proved beyond reasonable doubt.

30.27 In making the transfers in the manner he did (which were in breach of the SAR) the First Respondent had not behaved in a manner that the public would expect a solicitor to behave. The public would expect a solicitor to keep client money sacrosanct and only transfer it from client to office account in accordance with the SAR. The Respondent had not behaved in a way that maintained the trust that the public placed in him and in the provision of legal services. Allegation 1.1.2 was proved beyond reasonable doubt.

The Tribunal's Findings - Second Respondent

30.28 The Second Respondent admitted allegations 1.1.3 to 1.1.6 but denied that she had breached Principles 2 or 6. The Tribunal found the admitted allegations proved to the requisite standard. Whilst she had not made the transfers she was a partner and she was jointly responsible.

30.29 The Second Respondent had discovered that £17,400 had been transferred by the First Respondent who was someone she had the utmost confidence in. Despite his reassurances to her that he would rectify the situation the First Respondent then did the same thing again, this time in the sum of £39,700. The Second Respondent was "hoodwinked" by the First Respondent. This led to a clear failure by her. She should have been more pro-active. It was not enough to say that she would not sign any more reconciliations. She should have been monitoring the accounts and where she identified her own weaknesses in financial matters she should have taken steps to address them.

30.30 In behaving as she did the Tribunal was satisfied beyond reasonable doubt that the Second Respondent had not behaved in a way that maintained the trust that the public placed in her and the provision of legal services. The public would not expect an experienced solicitor to behave in this way. Client money was sacrosanct and transfers from client account to office account should only be made in accordance with the SAR. The Second Respondent had breached Principle 6 and allegation 1.1.2 was proved.

30.31 The Tribunal considered whether or not the Second Respondent had lacked integrity in breach of Principle 2. She had made a mistake and had not done what she should have done. However, the Tribunal was not sure beyond reasonable doubt that her actions amounted to a lack of integrity rather than being unwise and as a result of her misplaced trust in the First Respondent. Allegation 1.1.1 was not proved.

31. **Allegation 1.2 - By transferring the sums of £4,200, £3,600, £2,400 and £3,600 from the Firm's client account to the Firm's office account in February, March, June and August 2014 on account of costs but before sending a bill of costs or other written notification to the relevant client the First and Second Respondents each breached any or all of:**

1.2.1 Principle 2 of the Principles;

1.2.2 Principle 6 of the Principles;

1.2.3 Rule 17.2 of the SAR;

1.2.4 Rule 20.1 of the SAR; and/or

1.2.5 Rule 20.3 of the SAR.

The Applicant's Case

31.1 Rule 17.2 of the SRA Accounts Rules 2011 states that:

> "If you properly require payment of your fees from money held for a client or trust in a client account, you must first give or send a bill of costs, or other written notification of the costs incurred, to the client or the paying party".

31.2 The four smaller transfers on the List related to the First Respondent's client matters of Mr NS (deceased), Mr DA (deceased), Mrs MI (deceased) and Mr BF (deceased).The First Respondent stated that bills had now been sent to the clients in relation to these matters, and that Mrs JM, the Firm's cashier, would have the details. The First Respondent further stated that the transfers had been made in the absence of a bill being delivered to the client because he "knew the work had been done" and that the Firm "needed to meet office account requirements" such as "pay wages etc". On 26 October 2015, at the First Respondent's request, the Firm's accounts department had raised bills in relation to the matters of Mr NS, Mr DA, Mrs MI and Mr BF, however the transfers on those files had taken place on various dates between February and August 2014.

31.3 In her letter dated 22 February 2016, the Second Respondent stated that she was unaware of the four smaller transfers until "some considerable time after the transfers had taken place." Both the First and the Second Respondent advised the FIO that they would either "generally" (the First Respondent) or "on occasion" (the Second Respondent) not deliver an interim bill in advance of transferring the costs. The First Respondent stated that he did not believe that he had ever delivered an interim bill and the Second Respondent advised that there were instances where she had failed to deliver an interim bill of costs to the client but had undertaken the transfer of costs in any event. During the Inspection the First Respondent advised the FIO that he had undertaken a number of transfers of costs in advance of the delivery of the bill of costs, and that these transfers had not been posted to a client ledger so client ledgers did not accurately reflect the position in relation to client money.

31.4 When talking to the FIO on 27 October 2015, the Second Respondent stated that she would consider replacing the money which had been taken in the absence of a bill. She accepted that the money taken represented a shortage on client account and that the Firm had no entitlement to the same. Moreover the First Respondent also accepted that the transfers represented a shortage on client account and that he intended replacing the cash shortage personally.

31.5 By transferring monies from the Firm's client account to its office account, in respect of the matters Mr NS, Mr DA, Mrs MI and Mr BF, without previously sending a bill of costs or other written notification, the First and Second Respondents withdrew monies from client account and transferred monies from client to office account in circumstances other than those permitted by Rules 20.1 and 20.3 of the SAR and thereby breached those Rules, together with Rule 17.2 of the SAR. In failing to

promptly remedy the shortage that had occurred on client account as a result of these transfers, the First and Second Respondents also breached Rule 7.1 of the SAR. They each also failed to act with integrity and failed to behave in a manner which maintained the trust the public placed in them and in the provision of legal services, and in so doing breached Principles 2 and 6 of the Principles.

The First Respondent's Case

31.6 The First Respondent admitted the allegation but denied dishonesty.

The Second Respondent's Case

31.7 The Second Respondent admitted allegations 1.2.3 to 1.2.5 on the basis of strict liability as she had been a partner in the Firm. However she denied allegations 1.2.1 and 1.2.2. The Second Respondent had had no knowledge of these transfers and from recollection had only found out about them at the end of December 2014 or in January or February 2015 when the Auditors had come to deal with the Firm's accounts.

31.8 In the Second Respondent's Response dated 22 February 2016 she stated that although she was the Firm's COLP, she was not its COFA. She explained that "it had been the practice as I was frequently in the accounts office dealing with aspects of office administration, for our accounts clerk to present me with the monthly client bank account reconciliation statement and I would sign this as until the end of October 2013 there had been no cause for concern".

31.9 The Second Respondent maintained that she was not aware of the smaller four transfers until "some considerable time after the transfers had taken place" and that she "could not do anything to stop them as I did not know they were taking place." She further stated that:

> "I truly believed that [the First Respondent] would resolve the matter and had every confidence that he would do so....
>
> He continually re-assured me that he had carried out work to justify the amounts, and that the matter would be sorted....
>
> It was unbelievable to me that he would not be able to resolve the matter.
>
> I was becoming increasingly anxious and stressed about the situation and stressed to [the First Respondent] the absolute necessity of remedying the matter. When in 2015 it seemed that he was not going to be able to resolve the matter he did suggest that he would be able to make good the shortfall and the matter would be resolved."

31.10 In the same document, the Second Respondent stated that, if she ever made or authorised a transfer from client account where no interim invoice had been delivered to the client, "a) such transfers have only ever been made in respect of work that had actually been carried out and not in respect of future work; b) each and every transfer

was targeted and documented individually and recorded on the client ledger, so that the ledger would reflect the true and current position."

31.11 The Second Respondent referred to "suffering extreme stress with all that was going on. The stress of running the practice, the problems that had occurred over the last 2 years, the deficit on the client account, the non-renewal of the indemnity insurance, the looming bankruptcy, the imminent closure, the SRA inspection and having a partner who by that time seemed to have become somewhat "detached" had taken its toll. I was feeling unwell, needed medication, some days were worse than others and I was struggling."

31.12 Finally, she stated that "I can only offer my sincere apologies for what has occurred. I was very unhappy with what happened to the client account. Obviously it was wrong and should never have occurred."

The Tribunal's Findings - First Respondent

31.13 The First Respondent admitted the allegation but denied dishonesty. As the First Respondent was not present at the hearing to clarify whether his admissions included an admission to breach of Principles 2 and 6 the Tribunal treated allegations 1.2.1 and 1.2.2 as denied.

31.14 The First Respondent had prepared draft bills but they were never sent. He had made the transfers from client to office account in any event. The Tribunal found allegations 1.2.3 to 1.2.5 proved beyond reasonable doubt.

31.15 In respect of allegation 1.2.2 the Tribunal was sure that the public would not expect a solicitor to behave in this manner and that by behaving in this manner the First Respondent had failed to behave in a way that maintained the trust the public placed in him and the provision of legal services. Client money was sacrosanct and transfers from client account to office account in respect of bills should only be made in accordance with the SAR Allegation 1.2.2 was found proved beyond reasonable doubt.

31.16 A solicitor acting with integrity would not have behaved as the First Respondent had behaved. A solicitor acting with integrity would ensure that bills were prepared and sent in accordance with the SAR and only once the SAR had been complied with would a solicitor acting with integrity transfer the sums. The First Respondent had lacked integrity and allegation 1.2.1 was proved beyond reasonable doubt.

The Tribunal's Findings - Second Respondent

31.17 The Second Respondent had admitted allegations 1.2.3 to 1.2.5 and the Tribunal found them proved beyond reasonable doubt.

31.18 The Tribunal found that the Second Respondent had put her head in the sand and did not look at the financial records relating to the First Respondent's clients, she only considered those relating to her clients. This was an omission and should not have happened but the Tribunal were not sure beyond reasonable doubt that this amounted a lack of integrity. Allegation 1.2.1 was not proved.

31.19 In respect of the alleged breach of Principle 6 the Tribunal found to the requisite standard that the Second Respondent had breached Principe 6 and that allegation 1.2.2 was proved. It was not good enough not to look at what was going on. The Tribunal accepted that the Second Respondent had firmly believed the First Respondent's assertion that he was going to put matters right and considered that the Second Respondent viewed the situation as rectifiable. However by acting in this way the Second Respondent had failed to behave in a way that maintained the trust the public placed in her and the provision of legal services. Again, client money was sacrosanct and transfers from client account to office account should only be made in accordance with the SAR.

32. **Allegation 1.3 - By failing to remedy the consequent shortage on the client account arising from the transfers which are the subject of the allegations made against them in paragraph 1.1 and 1.2 the First and Second Respondents each breached Rule 7.1 SAR.**

The Applicant's Case

32.1 Rule 7 of the SRA Accounts Rules 2011 states that:

> "7.1 Any breach of the rules must be remedied promptly upon discovery. This includes the replacement of any money improperly withheld or withdrawn from a client account.
>
> 7.2 In a private practice, the duty to remedy breaches rests not only on the person causing the breach, but also on all the principals in the firm. This duty extends to replacing missing client money from the principals' own resources, even if the money has been misappropriated by an employee or another principal, and whether or not a claim is subsequently made on the firm's insurance or the Compensation Fund."

32.2 Both the First and Second Respondents accepted that the transfers detailed above represented a shortage of client funds and that the Firm did not have any entitlement to the money as no bill had been raised. Since those transfers were made on the instruction of the First Respondent he was necessarily aware of the existence of that shortage from the date upon which the relevant transfers were made. The Second Respondent has stated in her letter dated 22 February 2016 that she was aware of the transfer of £17,400 and the resulting shortage on client account for that sum, from 1 November 2013, when she was asked to sign the client account bank reconciliation for the preceding month. Similarly she was aware of the transfer of £39,700 on 2 January 2014, when she was asked to sign the client bank account reconciliation for December 2013, which she duly signed on 2 January 2014. Thereafter, the Second Respondent refused to sign any client bank account reconciliations, due to her "deep unease and unhappiness with the situation" and left it to the First Respondent to "sort the problem".

32.3 When talking to the FIO on 27 October 2015, the Second Respondent stated that she would consider replacing the money which had been taken in the absence of a bill. During a meeting with the FIO on 28 October 2015 the First Respondent stated that

he intended replacing the cash shortage personally. No monies were repaid, and the shortage remained on client account.

The First Respondent's Case

32.4 The First Respondent admitted the allegation but denied dishonesty which was not alleged in respect of allegation 1.3.

The Second Respondent's Case

32.5 The Second Respondent admitted the allegation. In her comments on the FIR (also dated 22 February 2016) the Second Respondent stated "I do recall stating that the money ought to be replaced but I could not offer any suggestion as to how this could be achieved by me as I did not have or ever have had any assets that would have enabled me to replace the money transferred by [the First Respondent]."

The Tribunal's Findings - First Respondent

32.6 The First Respondent admitted the allegation and the Tribunal found it proved beyond reasonable doubt. The First Respondent had made the transfers of £17,400 and £39,700. He knew of the shortage and had taken no steps to remedy it despite the assurances he provided to the Second Respondent that he would rectify the shortage. The First Respondent had prepared draft bills that were never sent and had caused the transfers set out in allegation 1.2 to be made. He had done nothing to remedy the shortage caused by these transfers. Allegation 1.3 was found proved.

The Tribunal's Findings - Second Respondent

32.7 The Second Respondent admitted the allegation and the Tribunal found it proved beyond reasonable doubt. The Second Respondent was aware of the initial £17,400 shortfall and did nothing to rectify it. She then became aware of the additional £39,700 further shortfall and took no steps to remedy it. When she became aware of the shortage caused by the transfers in allegation 1.2 she did not remedy the shortage. Whilst the First Respondent's actions had caused the situation the Second Respondent was obliged to remedy the shortage. Allegation 1.3 was found proved.

33. **Allegation 1.4 - During the period October 2013 (at the latest) to October 2014 (at the earliest), they failed to keep accounting records properly written up to show the Firm's dealings with client money and thereby the First and Second each breached any or all of:**

1.4.1 Principle 7 of the SCC;

1.4.2 Principle 8 of the SCC; and/or

1.4.3 Rule 29.2 of the SAR.

The Applicant's Case

33.1 Rule 29.2 of the SAR 2011 states that:

"All dealings with client money must be appropriately recorded:

(a) in a client cash account or in a record of sums transferred from one client ledger account to another; and

(b) on the client side of a separate client ledger account for each client (or another person or trust)"

33.2 The First Respondent advised the FIO that the transfers had not been posted to a client account ledger [even where a client ledger could be identified] at the time the transfers were undertaken as he had not provided the accounts department with the details to enable them to identify to which matter the transfers should be posted. The client account ledgers for the matters of Mr NS, Mr DA, Mrs MI and Mr BF all showed that bills were posted and the sums of £4,200, £2,600, £2,400 and £3,600 were transferred on 26 October 2015. The First Respondent accepted that this did not reflect the actual position as the transfers were in fact undertaken at various dates between February and August 2014.

33.3 The Second Respondent was aware that the accounting records for client account matters were not accurate, as there were consistent discrepancies with the client account bank reconciliations from October 2013 onwards. The Second Respondent was assured by the First Respondent that he would rectify the issues and she stated that he had told her "he had carried out work to justify the accounts and that the matter be sorted." She went on to say that "I had to leave the situation to him to resolve as I was unable to do so" despite him failing to do so after previous similar assurances.

33.4 By failing to keep accurate and properly written up accounting records to show the true position with regards to the Firm's dealings with client money from, at the latest, February 2014 to, at the earliest, October 2015, the First and Second Respondents failed to comply with their legal and regulatory requirements, and failed to run their business effectively and in accordance with proper governance and sound financial and risk management principles, and therefore breached Principle 7 and 8 of the Principles. They each further breached Rule 29.2 of the SAR.

The First Respondent's Case

33.5 The First Respondent admitted the allegation but denied dishonesty which was not alleged in respect of allegation 1.4.

The Second Respondent's Case

33.6 The Second Respondent admitted allegation 1.4.3 but denied allegations 1.4.1 and 1.4.2.

The Tribunal's Findings - First Respondent

33.7 The First Respondent had legal and regulatory obligations to keep the Firm's accounting records properly written up to show the dealings with client money. He

was the COFA. The First Respondent had admitted the breach of the SAR in this respect and the Tribunal found allegation 1.4.3 proved to the required standard.

33.8 As the First Respondent had not kept the Firm's accounts written up in accordance with the SAR he could not be said to be complying with their legal and regulatory obligations. The Tribunal found that the First Respondent had breached Principle 7 and allegation 1.4.1 was proved beyond reasonable doubt. It followed that in not complying with Rule 29.2 SAR and Principle 7 that the First Respondent was not running his business or carrying out his role in the business effectively and in accordance with proper governance and sound financial and risk management principles. The Tribunal found that the First Respondent had breached Principle 8 and allegation 1.4.2 was proved beyond reasonable doubt.

The Tribunal's Findings - Second Respondent

33.9 The Second Respondent had legal and regulatory obligations to keep the Firm's accounting records properly written up to show the dealings with client money. The Second Respondent had admitted the breach of the SAR in this respect and the Tribunal found allegation 1.4.3 proved to the required standard.

33.10 Factually if a solicitor does not keep their Firm's accounts written up in accordance with the SAR they cannot be said to be complying with their legal and regulatory obligations. The Tribunal found that the Second Respondent had breached Principle 7 and allegation 1.4.1 was proved beyond reasonable doubt. It followed that in not complying with Rule 29.2 SAR and Principle 7 that the Second Respondent could not be said to have run her business or carried out her role in the business effectively and in accordance with proper governance and sound financial and risk management principles. The Tribunal found that the Second Respondent had breached Principle 8 and allegation 1.4.2 was proved beyond reasonable doubt.

34. **Allegation 2.1 – The First Respondent in advising a FIO in the employment of the SRA on 26 October 2015 that the matters relating to Mr BF (deceased), Mr DA (deceased), Mrs MI (deceased) and Mr NS (deceased) had been resolved and that invoices had been sent out when he knew this was not true, he breached any or all of:**

2.1.1 Principle 2 of the Principles;

2.1.2 Principle 6 of the Principles; and/or

2.1.3 Principle 7 of the Principles.

The Applicant's Case

34.1 During interview with the FIO on 26 October 2015, the First Respondent advised the FIO that the matters of Mr NS, Mr DA, Mrs MI and Mr BF had been "resolved" as bills had now been sent to the each of the clients, and that Ms JM, the Firm's cashier, would have the details. When the FIO checked with Ms JM, he was advised that although bills had been raised in relation to these matters, contrary to the

First Respondent's assertion, the bills were draft bills only and had not been sent to the relevant clients.

34.2 By providing the FIO with information that he knew to be untrue, and assuring him that the matters relating to Mr NS, Mr DA, Mrs MI and Mr BF were now "resolved", when he knew this to be untrue, the First Respondent failed to act with integrity, failed to behave in a manner which maintained the trust the public had in him and in the provision of legal services and further failed to cooperate with his regulator, and therefore breached Principles 2, 6 and 7 of the Principles.

34.3 The First Respondent had initially required the FIO to attend the hearing for cross-examination but had then informed the Applicant that he did not require the FIO's attendance. Civil Evidence Act Notices had been served in respect of the FIR and as no Counter Notices had been received the Tribunal was entitled to accept the FIO's evidence. Mr Bullock reminded the Tribunal that the First Respondent was an interested party whereas the FIO's role was to simply report the events. In an email dated 24 February 2016 from the First Respondent to Mr Griffiths at the SRA the First Respondent had stated "I have no comment generally on the report of Mr Esney which is accurate regarding the discussions that I had with him so far as I can recall."

The First Respondent's Case

34.4 The allegation was denied. The First Respondent's Answer stated that in all four of the cases referred to at allegation 1.2 he had gone through the files before making those transfers. This was done in the same way that the First Respondent had done historically, namely to calculate the amount of work carried out on the file and apply the appropriate charge in accordance with his legitimate charging rate at the time. There was therefore an analysis carried out of the amounts that were transferred in respect of all four of these cases. Bills should have been sent out to the clients and the First Respondent explained that he did not know why the accounts department did not do so. The First Respondent accepted that he had a lack of control over his Firm's accounts department and he accepted it was his responsibility as he should have had that control. Nevertheless the allegation was that the First Respondent had misled the FIO. The First Respondent denied informing the FIO that the matters had been resolved. He had said they were capable of being resolved or words to the effect.

34.5 In his email dated 24 February 2016, the First Respondent confirmed that the FIR was "accurate regarding the discussions [he] had with [the FIO] so far as I can recall." He further stated that the pressures of being a solicitor were "now too great, and I found that in the last few years that this was having a detrimental effect to my health and caused me to deal with matters in a way that I would not have done in earlier years."

34.6 The First Respondent further stated that "...cash flow was often a problem" and that "the expenses of the firm had to be met.....These expenses could, of course, only be met by payments from clients and it was often the case that monies had to be transferred from client to office". The First Respondent also admitted "that the correct procedures were not always followed as highlighted in [the FIO's] report". He further stated "at the time of the offending transactions there was no doubt in my mind that these transfers could be justified" and that in the case of Mr BF he "was satisfied that

the work done and to be done from home was sufficient to justify the account which was subsequently raised."

34.7 The First Respondent maintained that:

> "In the same way I was satisfied in my own mind that the larger transfers referred to can also be justified, but in view of the pressures referred to above the time was simply not available to deal with the transfers in a timely manner to the extent that, sadly, the matters became overlooked leading to the auditors' qualified report."

The Tribunal's Findings - First Respondent

34.8 The First Respondent denied allegations 2.1.1, 2.1.2 and 2.1.3. The Tribunal preferred the evidence of the FIO to the evidence of the First Respondent and found that the First Respondent had informed the FIO that the specified matters had been resolved and that invoices had been sent out. The Tribunal also found that there was no evidence that those invoices had been sent out. These were matters that the First Respondent had conduct of and for which he had prepared the bills. He must have known that what he told the FIO was not true.

34.9 The Tribunal had to ask itself whether a solicitor of integrity would tell a FIO something that he knew not to be true. Clearly a solicitor acting with integrity would do no such thing. Allegation 2.1.1 was proved beyond reasonable doubt.

34.10 The public would not expect a solicitor not to tell the truth to a FIO. By behaving as he did the First Respondent had failed to behave in a way that maintained the trust that the public placed in him and in the provision of legal services. Allegation 2.2.1 was proved beyond reasonable doubt.

34.11 The First Respondent was under an obligation to deal with his regulator in an open, timely and co-operative manner. However the First Respondent provide the FIO with information that was wrong and misleading. The First Respondent had breached Principle 7 and allegation 2.1.3 was proved beyond reasonable doubt.

35. **Allegation 2.2 – The First Respondent in transferring costs/raising an invoice in respect of his client Mr BF (deceased) in August 2014, for an amount which he knew to be in excess of the amount which was properly due, he breached any or all of :**

2.2.1 Principle 2 of the Principles;

2.2.2 Principle 4 of the Principles; and/or

2.2.3 Principle 6 of the Principles.

The Applicant's Case

35.1 The First Respondent was named as an executor of the estate of Mr BF (deceased). The List identified a transfer of £3,600 on an unknown date in August 2014. The

client account ledger for this matter showed a transfer for this sum on 26 October 2015. A previous transfer of costs had been made on 14 May 2014 in the sum of £1,200, however the client file did not include a bill in relation to the same. The only work the FIO could identify that had been undertaken after 14 May 2014 was one letter to an investment company dated 19 May 2014.

35.2 When asked by the FIO how he could justify the transfer of costs of £3,600, the First Respondent stated that he had "heaps of paperwork at home" but was unable to collect the same as he had pre-arranged meetings with clients that he needed to attend. He accepted that the file did not justify the costs transferred in August 2014, which were manifestly excessive for the work undertaken, but stated that the "overall costs would be justifiable". This was recorded at paragraph 44 of the FIR.

35.3 As between a solicitor and their client, a solicitor is best placed to assess the reasonableness of the fees being charged for work done in the course of their retainer. Consequently, a solicitor of integrity does not seek payment of sums from their client which they know to be excessive. Furthermore, it was plainly in the best interest of the client to be presented with a bill which is reasonable for the work done and the solicitor will not have provided a proper standard of service if they fail to provide such a bill. Lastly, the public would trust solicitors to be fair in their dealings with their clients and not to charge them excessive fees for work done. Consequently, the taking by a solicitor of excessive sums in respect of costs would necessarily serve to diminish the trust the public placed in them and in the reputation of the profession.

The First Respondent's Case

35.4 The First Respondent denied the allegation. The First Respondent's position was that the estate of Mr BF deceased, although relatively straightforward in legal terms was complex in the amount of paperwork, especially as the deceased had dozens of shares in companies. Whilst most of what was said in the FIR at paragraph 44 was accurate the First Respondent denied saying that the file did not justify the costs transferred. The First Respondent was not sure that he understood the suggestion at paragraph 46 of the FIR which stated: "The Officer asked Mr Jones if the work undertaken on file since 14 May 2014 would justify the costs transferred on 26 October 2015. Mr (sic) stated "no" and repeated that the "overall costs would be justifiable." The First Respondent could say that the costs of £3,600 on 26 October 2015 were justified by the work done up to that date.

35.5 At the time of filing his Answer the First Respondent stated that he hoped to be able to have access to this file and other files so that he could show that the amount transferred would have been a legitimate transfer had he raised a bill. The First Respondent did not submit any further evidence after his Answer was received.

The Tribunal's Findings - First Respondent

35.6 The First Respondent denied the allegation. He had produced no evidence to justify the amount charged. He could not show that the amount was properly due. A solicitor acting with integrity would not transfer costs or raise an amount which he knew to be in excess of the amount which was properly due. The First Respondent had acted without integrity and allegation 2.2.1 was proved beyond reasonable doubt.

35.7 Principle 4 required the First Respondent to act in the best interests of each client. By raising an invoice/transferring costs for an amount in excess of the amount that was properly due the First Respondent was not acting in the best interest of each client. Allegation 2.2.2 was proved beyond reasonable doubt.

35.8 The First Respondent was required to behave in a manner that maintained the trust that the public placed in him and in the provision of legal services. Clearly by acting as he did he did not act in a way that was compatible with this obligation. Allegation 2.2.3 was proved beyond reasonable doubt.

36. **Allegation 2.3 - The First Respondent in preparing invoices for clients and/or transferring monies from the Firm's client account to its office account without undertaking any substantive evaluation as to the level of work that could be reasonably charged to the client, he breached any or all of:**

2.3.1 Principle 2 of the Principles;

2.3.3 Principle 4 of the Principles;

2.3.3 Principle 5 of the Principles; and/or

2.3.4 Principles 6 of the Principles.

The Applicant's Case

36.1 At paragraph 44 the FIR exemplified the client matter of Mr BF (deceased), whereby the First Respondent transferred the sum of £3,600 from the Firm's client account to the Firm's office account, purportedly in respect of costs due to the Firm, notwithstanding the First Respondent knowing that file did not justify the costs transferred. Moreover, during interview with the FIO, the First Respondent stated that he could not recall how he had arrived at the figures for the transfers of £4,200, £3,600, £2,400 and £3,600, relating to Mr NS, Mr DA, Mrs MI and Mr BF but that he "knew the work had been done" (as set out at paragraphs 32 and 33 of the FIR).

36.2 It was not in his clients' best interests that monies purportedly relating to costs were transferred from the client account ledgers to the Firm's office account without the First Respondent first undertaking a substantive evaluation of the amount of work for which each client could reasonably be charged. By raising draft bills on the matters relating to Mr NS, Mr DA, Mrs MI and Mr BF and transferring monies purportedly in respect of costs, when he had not carried out a substantive evaluation of the work undertaken in respect of each matter, the First Respondent failed to act in his clients' best interests and failed to provide a proper standard of service to each client, thereby breaching Principles 4 and 5 of the Principles. Moreover, his actions in transferring these sums when he was unable to recall how he had arrived at the figures so transferred, he failed to act with integrity and failed to behave in a manner which maintained the trust the public placed in him and in the provision of legal services, in breach of Principles 2 and 6 of the Principles.

The First Respondent's Case

36.3 The First Respondent denied the allegation. In his Answer the First Respondent stated that he carried out a substantive evaluation as to the level of work that could reasonably be charged to the client matter. In respect of Mr BF deceased and the transfer of £3,600 the First Respondent reiterated the same point that he made in respect of allegation 2.2 above with regard to paragraph 44 of the FIR.

36.4 The First Respondent took issue with the implications made at paragraphs 32 and 33 of the FIR because as indicated above he had evaluated the files prior to making the transfers. In particular with regard to paragraph 32 the First Respondent said that he would not have stated that he could not recall how he arrived at the figures for the transfers but he may have indicated he could not then remember the details.

36.5 The First Respondent accepted of course that there was a failure to follow proper procedures but he did consider what he did to amount to a substantive evaluation of the level of work that could be reasonably charged to the client matter.

36.6 The First Respondent accepted that he failed to carry out a substantive evaluation in respect of the transfers of £17,400 and £39,700 but noted that the facts and matters relied on in support of allegation 2.3 were set out in paragraphs 62 to 66 of the Applicant's Rule 5 Statement and did not appear to make specific allegations in respect of the £17,400 and £39,700 transfers.

The Tribunal's Findings - First Respondent

36.7 The First Respondent denied the allegation. The Tribunal reached its decision on the basis of the transfers set out in allegations 1.2 and 2.2 and did not consider the sums of £17,400 and £39,700 in respect of this allegation.

36.8 The Tribunal found that the First Respondent had prepared invoices for clients and/or transferred monies from the Firm's client account to its office account without undertaking any substantive evaluation as to the level of work that could be reasonably charged to the client. A solicitor acting with integrity would not behave in this way. The First Respondent had acted without integrity and allegation 2.3.1 was proved beyond reasonable doubt.

36.9 Principle 4 required the First Respondent to act in the best interests of each client. By preparing invoices for clients and/or transferring monies from the Firm's client account to its office account without undertaking any substantive evaluation as to the level of work that could be reasonably charged to the client the First Respondent had not acted in the best interests of each client and allegation 2.3.2 was proved beyond reasonable doubt.

36.10 Principle 5 required the First Respondent to provide a proper standard of service to his clients. For the same reasons, as set out in respect of Principle 4 above, the First Respondent had not provided a proper standard of service to his clients. Allegation 2.3.3 was proved beyond reasonable doubt.

36.11 The First Respondent was required to behave in a manner that maintained the trust that the public placed in him and in the provision of legal services. Clearly by acting as he did he did not act in a way that was compatible with this obligation. Allegation 2.3.4 was proved beyond reasonable doubt.

37. **First Respondent only – Dishonesty with respect to allegations 1.1, 1.2, 2.1 and 2.2.**

The Applicant's Case

37.1 The First Respondent's actions were dishonest in accordance with the test for dishonesty as set out in Bultitude v Law Society [2004] EWCA Civ 1853 applying, in the context of solicitors disciplinary proceedings, the combined test laid down in Twinsectra Ltd v Yardley and Others [2012] UKHL 12.

37.2 In knowingly transferring monies from the Firm's client account to its office account, in circumstances other than those permitted by Rule 20.1 of the SAR, causing the client account to be overdrawn, making untrue statements to the FIO and transferring costs for an amount which he knew to be in excess of the work recorded against the matter, the First Respondent acted dishonestly by the ordinary standards of reasonable and honest people.

37.3 Not only was his conduct in so doing dishonest by the ordinary standards of reasonable and honest people but he must also have been aware that it was dishonest by those standards for the following reasons:-

- The First Respondent was a senior solicitor with 41 years' experience in practice and had managed the Firm for 13 years. It was inconceivable that a solicitor possessing this degree of experience would not have understood his obligations under the SAR, the sacrosanct character of client money and the importance of being fully frank and co-operative with his regulator.

- The First Respondent was aware of the seriousness of the discrepancies with respect to the client account ledgers and the shortage on client account as he assured the Second Respondent on a number of occasions that the matter would be sorted.

- After the Second Respondent refused to sign any further client account bank reconciliations until the discrepancies were resolved, the First Respondent signed all subsequent reconciliations, notwithstanding that the shortage was clearly showing on all of them.

- In his Response to the EWW, the First Respondent referred to the fact that the "expenses of the firm had to be met" which could "only be met by payments from clients" and "it was often the case that monies had to be transferred from client to office". This demonstrates that money was being transferred out of commercial necessity and not because they were genuinely due to the Firm.

- Taken together, the First Respondent's actions in giving instructions for the making of the Transfers referred to within the List constitute a course of action extending over a period of ten months. He therefore had ample opportunity to reflect upon the propriety of his actions.

- The First Respondent made a conscious decision to give information to the FIO that the matters relating to Mr NS, Mr DA, Mrs MI and Mr BF had been resolved, and that bills had been sent out to them, when he knew that only draft bills had been created, which had not been, and would not be, sent to the clients. He would have had no reason to conceal the true position unless he knew that what he had done was wrong.

- The First Respondent's statement to the FIO that the matters of Mr NS, Mr DA, Mrs MI and Mr BF had been "resolved" was a blatant untruth and must have been known by him to be such. Moreover, it was statement made in the context of a formal investigation by the SRA where the First Respondent must have understood the importance of being frank and honest in responding to questions.

- As has been stated, the charge of £3,600 for the writing of a single letter on the matter of Mr. BF was manifestly excessive. It is inconceivable that the First Respondent can have held a genuine belief that he was entitled to charge a sum of that magnitude for the writing of a single letter.

37.3 Mr Bullock submitted that the First Respondent was an extremely experienced solicitor who had been a partner for thirteen years. He had transferred £57,100 for no good reason except that he believed he was owed the money. The transfers had been made to cover a payment to HMRC. He had raised bills that he had not sent to the clients and he had not undertaken adequate checks. An honest solicitor who took money without raising bills would be very careful that he could justify the amount taken in payment. The First Respondent had not behaved in the manner an honest solicitor would act. He knew what he was doing would be viewed as acting dishonesty by the ordinary standards of reasonable and honest people.

37.4 The First Respondent had not voluntarily attended the hearing to give an account of himself and submit himself to cross-examination. In accordance with the case of Iqbal v Solicitors Regulation Authority [2012] EWHC 3251 the Tribunal was entitled to draw an adverse inference from the fact that the First Respondent had not elected to go into the witness box to explain his actions.

The First Respondent's Case

37.5 Whilst the First Respondent admitted allegations 1.1, 1.2, 1.3 and 1.4 he denied any dishonesty. The First Respondent stated that there was no doubt in his mind that at the time of these transfers the amount of the transfers could be justified. The First Respondent deeply regretted the fact that proper procedures were not followed. The pressures of work were too great and in the latter years of his practice these pressures were having a serious detrimental effect on his health both mental and physical. There was a large flow of work much of which fell on his shoulders and the demands of clients and the ever increasing telephone calls and emails caused a significantly increased workload but with no real increase in income leaving the

First Respondent with little time to deal properly with the administration of the accounts department which fell entirely upon his shoulders.

37.6 With regard to allegation 1.1 the First Respondent believed that these transfers were specifically to cover a requirement for payment from HMRC who attended the office. Between them these transfers would have related to several matters. Both at the time and at the time of his Answer, the First Respondent was satisfied that work had been done which could justify billing to that extent. If the First Respondent had not been under so much pressure and stress and ill health and had had the time the First Respondent explained that he could have gone through his accounts print out and his files to both justify the transfers and do billing.

37.7 In respect of allegations 1.3 and 1.4 the First Respondent denied dishonesty however he thereafter noted that no dishonesty was actually alleged against him in this respect. He understood that dishonesty was not an essential ingredient for proof of the allegations hence his admission.

37.8 The First Respondent did not provide any submissions in respect of the allegation of dishonesty related to allegations 2.1 and 2.2. These allegations were denied and the allegations of dishonesty were treated by the Tribunal as also being denied.

37.9 In an email to Mr Griffiths dated 24 February 2016 the First Respondent had denied dishonesty and had stated "The sins were those of omission rather than commission and for that I am profoundly sorry."

The Tribunal's Findings - First Respondent

37.10 Dishonesty was alleged in respect of allegations 1.1, 1.2, 2.1 and 2.2.

37.11 Allegation 1.1 concerned the improper transfers of £17,400 and £39,700. The Tribunal asked itself whether when making these transfers or allowing them to be made the First Respondent acted dishonestly by the ordinary standards of reasonable and honest people and that he realised that by those standards he was acting dishonestly. In respect of the objective test the Tribunal was sure that an honest solicitor would not act as the First Respondent had acted and that he had acted dishonestly by the ordinary standards of reasonable and honest people. The Tribunal then considered the subjective test namely did the First Respondent realise that he was acting dishonestly by those standards. The First Respondent had not produced any evidence to support what he said despite being given the opportunity to produce the files. He had said that money was required for HMRC and the Firm's expenses. Given his experience he must have known that his actions would be considered dishonest by the ordinary standards of reasonable and honest people. Dishonesty in respect of allegation 1.1 was proved beyond reasonable doubt.

37.12 Allegation 1.2 related to four transfers on account of costs that were made before a bill of costs or other written notification had been sent to the relevant client. Again, the Tribunal asked itself whether when making these transfers or allowing them to be made the First Respondent acted dishonestly by the ordinary standards of reasonable and honest people and that he realised that by those standards he was acting dishonestly. The Tribunal was sure that an honest solicitor would not act as the

First Respondent had acted and that he had acted dishonestly by the ordinary standards of reasonable and honest people. The objective test was met. The Tribunal then considered the subjective test namely did the First Respondent realise that he was acting dishonestly by those standards. For the same reasons as set out in respect of allegation 1.1 above the Tribunal found that the First Respondent must have known that his actions would be considered dishonest by the ordinary standards of reasonable and honest people. Dishonesty in respect of allegation 1.2 was proved beyond reasonable doubt.

37.13 Allegation 2.1 arose from the First Respondent informing the FIO that the matters relating to four specified clients had been resolved and that invoices had been sent out when he knew that this was not true. The Tribunal considered the objective and subjective limbs of the Twinsectra test for dishonesty. An honest solicitor would not lie to their regulator. The fact that the First Respondent had done so would be considered dishonest by the ordinary standards of reasonable and honest people. The First Respondent had had conduct of the matters and had known what he had done. He must have known that lying to his Regulator would be considered as dishonest by the ordinary standards of reasonable and honest people. Dishonesty in respect of allegation 2.1 was proved beyond reasonable doubt

37.14 Allegation 2.2 related to the transferring of costs/raising an invoice in respect of Mr BF for an amount whence the First Respondent knew to be in excess of the amount properly due. The Tribunal applied the combined test as set out in Twinsectra. The First Respondent had produced no evidence to show that the amount of work charged was properly due despite being given the opportunity to do so. He could not justify the amount charged. Transferring costs/raising an invoice for an amount in excess of the amount properly due would undoubtedly be classed as acting dishonestly by the ordinary standards of reasonable and honest people. As an experienced solicitor with conduct of the matter in question who knew what work had and had not been done the First Respondent must have realised that his actions would be considered as dishonest by the ordinary standards of reasonable and honest people. Dishonesty in respect of allegation 2.2 was proved beyond reasonable doubt.

Rule 7 Statement

38. **Allegation 2.1 - By using, or allowing to be used, between 24 July 2015 and 13 June 2016, the sum of £87,252.20 received into the Firm's client account in respect of its client IPHL for purposes other than for that client's matter they each breached, or failed to achieve, all or any of :**

2.1.1 Principle 2 of the Principles;

2.1.2 Principle 6 of the Principles;

2.1.3 Rule 14.3 of the SAR and

2.1.4 Withdrawn

The Applicant's Case

38.1 Rule 14.3 of the SRA Accounts Rules 2011_provides that "Client money must be returned to the client (or other person on whose behalf the money is held) promptly, as soon as there is no longer any proper reason to retain those funds. Payments received after you have already accounted to the client, for example by way of a refund, must be paid to the client promptly." Rule 20.1 of the SRA Accounts Rules 2011 sets out the circumstances in which client money can be withdrawn from a client account.

38.2 The First Respondent was instructed by IPHL in relation to the purchase of 5 BR for £240,000 ("the Property"). The Property was being sold by Mr CB and Mrs LB, with completion taking place on 24 July 2015. Mr CB and Mrs LB, who were estranged, were represented by LC Solicitors and TAM Solicitors respectively. The sum of £240,000 was received by the Firm on 14 July 2015.

38.3 In a letter dated 7 September 2015 to LC the First Respondent stated:

> "The amount required to redeem the mortgage in favour of Halifax was £152,747.80. We enclose a copy of the redemption statement. This leaves a balance of £87,252.20 which we confirm is being held on client account on the understanding that we will not distribute any monies save with the consent of both yourselves and Messrs [TAM]."

38.4 The sum of £152,747.80 was paid to Mr CB and Mrs LB's mortgage provider on or around 24 July 2015 however the balance of £87,252.20 was not transferred to either Mr CB and/or Mrs LB, either in whole or in part at any time before the Firm closed in December 2015. At the date of the Firm's closure, there were insufficient funds held in the Firm's client bank account to meet its liabilities to its clients.

38.5 On 28 March 2016, the Second Respondent wrote to HS Solicitors, who were by then representing the Firm's former client IPHL. In her letter, she confirmed:

> "As regards the money on client account this, in the main, consists of money returned to the client account by [firm M] and would appear to me to be allocated specifically to other files and is not general client money so I am not at liberty to release any of it to you ....
>
> I am sorry for the distress caused to your clients and regret that, at present, I am unable to assist further".

38.6 As there was insufficient money held on client account to transfer to Mr CB and/or Mrs LB, despite the Respondent's assurances that the sum of £87,252.20 would not be distributed without both of their solicitors' consent, it must have been improperly transferred from the Firm's client account in circumstances other than those permitted by Rule 20.1 of the SAR. As Principals of the Firm, both Respondents were strictly liable for breaches of the SAR committed by each other, or by any persons employed by the Firm by virtue of Rule 6 SAR. They therefore each breached Rules 14.3 and 20.1 of the SAR.

38.7 In the circumstances, the First and Second Respondents breached Rule 20.1 of the SAR, and further failed to keep other people's money separate from money belonging to them or the Firm, and further failed to use client's money for that client's matters only, and therefore breached Rules 1.2(a) and (c) of the SAR.

38.8 A solicitor of integrity would understand that client money held on client account belonged to others and was therefore to be treated as sacrosanct. They would be astute to ensure that sums were not transferred from that client account in circumstances other than those permitted by Rule 20.1 of the SAR. Such a solicitor of integrity would also ensure that monies held on client account should be promptly returned to the client as soon as there was no lawful reason to retain such monies. Moreover, the improper transfer of a sum of money by a solicitor to which that solicitor was not entitled would necessarily impair the good repute of, and diminish the trust the public placed in, both the solicitor and the profession.

38.9 Until the end of April 2017 the whereabouts of the £87,252.20 had not been known. It had now been established as part of the Intervention process that the monies were part of a larger sum of approximately £167,000 which had been transferred back into the client account of the Firm. The fact that the First and Second Respondents had not known where this money was demonstrated that there were not proper accounting procedures and records in place. The public would be extremely concerned that solicitors effectively did not know what monies they held and that £87,252.20 had effectively got lost in the process of the Firm closing. The failure to account for the money when it was sent to firm M was so reckless as to amount to a lack of integrity.

The First Respondent's Case

38.10 The First Respondent had not filed an Answer to the Rule 7 Statement and the allegation was treated as denied.

The Second Respondent's Case

38.11 The Second Respondent denied the allegation. She had had no involvement in the transaction. She had never met Mr or Mrs B.

38.12 Immediately prior to the bankruptcy of the First and Second Respondents and the closure of the Firm the First Respondent had not really been engaging and the Second Respondent had been trying to resolve matters and make decision about what to do. The First and Second Respondents had hoped that they could enter into Individual Voluntary Arrangements ("IVA") and transfer their files to another firm of solicitors, firm M, and go and work for that firm. The plan had been to reconcile each individual matter as part of that process. However IVAs were not agreed and the Respondents were told that the IVA would not be accepted and that they would be made bankrupt on 9 December and were made bankrupt on 14 December 2015. There had not been a lot of time. The Firm closed on 9 December 2015. Once the bankruptcy had occurred the locks were changed and the Respondents were not allowed back into the offices. The Second Respondent had no support from the First Respondent and she knew that she was not going to be able to reconcile each matter and pass it over to firm M in view of the bankruptcy.

38.13 There was approximately £3.6 million in client account and the Second Respondent transferred £3 million to firm M having calculated that approximately £600,000 was required for outstanding cheques to the clients etc. Subsequently money was transferred back to the Firm and six or seven further transfers were made to firm M as monies were received on matters that they had taken over.

38.14 Not all of the Firm's clients instructed firm M but the Second Respondent had no way of knowing which clients had contacted firm M and told them to transfer their matter to other solicitors. The Second Respondent had not been in a position to do a reconciliation and relied on the reconciliations done by firm M. The Firm had transferred upwards of four hundred matters with balances on client account to firm M and about the same number of matters that did not have any monies on client account.

38.15 The Second Respondent had been contacted by firm HS who were acting for IPHL enquiring about the £87,252.20. The Second Respondent was a "tad shocked". She knew nothing of the matter, she believed that the reconciliations done by firm M were right and she could not understand what had happened. She had had many sleepless nights. At the time of the Intervention the client account balance was approximately £3,205.84. In late April 2017 she had been informed that the client account balance was in fact £170,606.17. It had been confirmed that this included the sum of £87,252.20. The Second Respondent could not tell the Tribunal how pleased she had been to see that. She was not blaming anyone but it had emerged that the reconciliations done by firm M were wrong and they had more client money than they needed for the matters that had been transferred to them.

38.16 The Second Respondent considered that when she made the transfer to firm M she was safeguarding client money and doing the right thing. She was thankful the money had been found. As she understood it the money had been transferred to the Intervention Agents in March 2017 but she only became aware of this three weeks prior to the hearing.

The Tribunal's Findings - First Respondent

38.17 The Tribunal treated the allegation as denied. The allegation was specifically worded to state "By using, or allowing to be used, between 24 July 2015 and 13 June 2016, the sum of £87,252.20 received into the Firm's client account in respect of its client IPHL for purposes other than for that client's matter they each breached, or failed to achieve, all or any of Principle 2, Principle 6 or Rule 14.3 of the SAR."

38.18 IPHL purpose had been to purchase the Property. That purchase had completed and IPHL were registered as proprietors of the Property as was demonstrated by an Official Copy of the Register dated 16 October 2015. This showed the date of purchase as 24 July 2015. The monies received from IPHL had been used as IPHL intended. Once the transaction completed the monies no longer belonged to IPHL they belonged to the sellers of the Property. There was no evidence before the Tribunal that the Firm acted for the sellers in the transaction but there was evidence that the Firm agreed to hold the proceeds of sale pending instructions from the matrimonial solicitors acting on behalf of Mr and Mrs B.

38.19 It was unacceptable and regrettable that the Firm had not known where the £87,252.20 was for some considerable period of time. The Tribunal in no way condoned the situation that had arisen. However as the allegation was drafted with specific reference to IPHL the Tribunal found the factual basis of the allegation not proved for the reasons stated above. Accordingly the Tribunal did not go on to consider whether Principles 2 and/or 6 and Rule 14.3 of the SAR had been breached. Allegation 2.1 was not proved.

The Tribunal's Findings - Second Respondent

38.20 For the same reasons as set out in respect of the First Respondent above the Tribunal did not find allegation 2.1 proved beyond reasonable doubt.

39. **Allegation 2.2 - On 17 December 2014 they withdrew, or arranged to be withdrawn, the sum of £21,000 from the Firm's client bank account purportedly for their client Mrs AS, which was not subsequently accounted for to that client, resulting in a shortage on client account for that sum and therefore breached, or failed to achieve, any or all of :**

2.2.1 Principle 2 of the Principles;

2.2.2 Principle 6 of the Principles;

2.2.3 Principle 10 of the Principles; and

2.2.4 Rule 14.3 of the SAR.

The Applicant's Case

39.1 On or around 17 December 2014, the Second Respondent withdrew the sum of £21,000 from the Firm's client bank account, at the request of the First Respondent, purportedly in respect of the Firm's client Mrs S. Upon her return to the office, the Second Respondent gave the money to the First Respondent as requested, maintaining that she did not see the cash thereafter. In her statement dated 13 October 2016 the Second Respondent stated that she understood than an arrangement had been made for members of Mrs S's family to visit the office, which she assumed was to "collect the cash". Notwithstanding this, Mrs S has informed the SRA that she has never received the sum of £21,000 from the Firm, in December 2014 or at all.

39.2 A solicitor of integrity would be reluctant to withdraw substantial sums of cash from their client account without good reason, because such a withdrawal would inevitably raise the suspicion that the funds in question had been misappropriated. If, however they did so, they would ensure that the monies concerned were fully and promptly accounted for so as to avoid any suspicion of impropriety. If they were unable to return the funds to the client then they would ensure that they were able to explain why a large sum of client money had been paid away – however, neither Respondent has been able to explain what happened to the £21,000 withdrawn on 17 December 2014 after it came into the hands of the First Respondent. Moreover, a member of the public would expect a solicitor of integrity to ensure that any monies

withdrawn from client account are either promptly paid to the relevant client or a full account provided to the client of their dealings with those monies.

39.3 By failing to pay the monies withdrawn from the client account ledger for their client Mrs S promptly or at all, the Respondents each failed to act with integrity, failed to behave in a manner which maintained the trust the public placed in them and in the provision of legal services, and also failed to protect client money, and therefore breached Principles 2, 6 and 10 of the Principles. They also breached Rule 14.3 of the SAR.

The First Respondent's Case

39.4 The First Respondent had not filed an Answer to the Rule 7 Statement and the allegation was treated as denied.

The Second Respondent's Case

39.5 The Second Respondent denied the allegation. The Second Respondent accepted that the withdrawal of the cash was very odd on the surface of it. It was terrible that the client had not got the money and it should not have happened. The Second Respondent was shocked and horrified.

39.6 The Second Respondent explained that although she was introduced to Mrs S at some stage she never acted on any of the files or had any involvement with them; they were all dealt with by the First Respondent with the help of his secretaries/assistants. She accepted that the reasons given to her by the First Respondent was valid as "at the time I had no reason to doubt what he said."

39.7 The bank had made the money available a little earlier than expected. The Second Respondent maintained that when she handed the money to the First Respondent:

> "he stated that he was going to telephone [Mrs S] to tell her that the cash was now in the office and to ask her to come in and collect the cash as soon as possible......My belief is that a little later in the afternoon he told me that [the S's] were coming in later that afternoon. Later still that afternoon I was coming down the stairs and saw at least 2 people entering [the First Respondent's] office.... I can clearly remember thinking that these persons were the [S] family going to collect the cash. I can remember feeling relieved that they had come and that I would not have to lock the cash away in the strong room overnight. As I believed the cash had been collected I did not interrogate [the First Respondent] but I have the belief that he told me that the cash had been collected."

39.8 The Second Respondent maintained that she had "no information or knowledge as to what happened to the money." She further stated:

> "I was aware of previous transfers by [the First Respondent] but he kept promising that he was going to remedy those breaches. I was not aware at the time that the promise was not going to be fulfilled even though I believed that

he had the intention to do so. In December 2014 I still had trust in [the First Respondent] and could not have believed that he would have involved me by asking me to obtain cash from the bank, which I did in good faith believing that I was carrying out the client's wishes, and then not pass the money to the client. Such a notion would have been inconceivable to me. It is very hard when trust has been built up over many years to believe that it could or would be betrayed.

With the benefit of hindsight I would have acted differently but at the time I believed that I acted reasonably and I believed that I was following clients (sic) instructions and assisting them."

39.9 The Second Respondent said that it was difficult to explain how highly the First Respondent had been regarded locally up until all this had happened and even after that. It seemed inconceivable that the First Respondent would ask the Second Respondent to go and get cash out the bank for a client but that client never got the cash.

39.10 The Second Respondent explained that she had gone to get the cash as she was the person who went to the bank. This was the only reason that she was involved. She had been told by the First Respondent that the client wanted the money but had taken no steps to verify that with the client. With hindsight the Second Respondent acknowledged that she should have asked to see written instructions signed by Mrs S requesting the withdrawal. She had been overly trusting of the First Respondent. The request was not suspicious in itself.

39.11 The Second Respondent explained that the clearing time for cheques was much longer than people realised, being a total of nine days and that the Firm had limited online banking but with no facility to make bank to bank transfers, so any transfer of money had to be by way of telegraphic transfer or CHAPS. The Second Respondent had not considered arranging to meet the client at the bank. Mrs S would have needed to identify herself to the Second Respondent. The Second Respondent had understood that the client was coming into the office about 4 pm and the Second Respondent was not sure that the appointment would have been in time to enable them to collect cash from the bank.

39.12 Despite the two transfers from the client account the request did not ring any alarm bells. The First Respondent's explanation sounded reasonable. He had promised the Second Respondent that he would put things right and it was only apparent to her later that he did not do so. The Second Respondent did not think that the First Respondent would involve her in anything and had no idea what happened to the cash. She was extremely angry about what had happened.

39.13 The Firm all knew each other and trusted each other. The timing of the request just prior to Christmas was clever. The Second Respondent had understood that a cheque would not do as it would not clear before Christmas. It just did not occur to the Second Respondent that she would get the money and it would not be given to the client.

39.14 The Second Respondent had provided two statements on the S matter for purposes other than these proceedings (dated 31 August 2016 and 13 October 2016). These were before the Tribunal. These set out the Second Respondent's involvement in collecting the cash and what she believed to be the reasons for the request at the time. Had the Second Respondent known what she knew now and had seen Mrs S statement before preparing her response to the Rule 7 Statement she would have been more definitive that the money did not get to the client.

39.15 The Second Respondent had not known that there was any issue until the end of May 2016. On 7 June 2016 firm M had asked her for a copy of the cheque. This was approximately five months after closure of the Firm. Mrs S had been a matrimonial and then a probate client of the First Respondent's, she was not the Second Respondent's client. The Second Respondent had had no idea that Mrs S had not received the money and her suspicions were only raised seventeen months after she thought the client had had the money. The Second Respondent understood that Mrs S had made a claim for compensation and had prepared two statements as part of the evidence in those proceedings. These were before the Tribunal. The Second Respondent did not know what had happened to the £21,000. She had given the money, still in its bank wrappers, to the First Respondent when she had come back from the bank after her lunchtime walk. She never saw the money again. At the time the Second Respondent had believed that Mrs S was coming into the office that day and she had seen someone in the office who could have been Mrs S but she had only met Mrs S once and did not think she would recognise her if she passed her in the street.

39.16 The Second Respondent was clear that if she had had any inkling that the money she withdrew would not reach the clients she would never have withdrawn the cash. It never occurred to her that any attempt would be made to deprive the clients of their money.

<u>The Tribunal's Findings - First Respondent</u>

39.17 The Tribunal treated the allegation as denied. Mrs S had never received the money. There was no FIR in respect of this allegation, however there was a witness statement from Mrs S confirming that she had not received the money. The Tribunal found allegation 2.2.4 proved beyond reasonable doubt. As the money had not reached Mrs S, the First Respondent had clearly not complied with Rule 14.3 of the SAR which provided, inter alia, that client money must be returned to the client promptly, as soon as there was no longer any proper reason to retain those funds.

39.18 In respect of the alleged breach of Principle 2 the Tribunal found that the First Respondent had requested the Second Respondent to withdraw the money and she had done so. The First Respondent had provided the Second Respondent with an explanation as to why the cash was required. However Mrs S had not requested that the monies be withdrawn. There was no client instruction which authorised the withdrawal and the money was never received by Mrs S. A solicitor acting with integrity would not withdraw £21,000 cash without their client's instructions and would ensure that any monies withdrawn from client account were accounted for to his client. The First Respondent had acted without integrity and the Tribunal found allegation 2.2.1 proved beyond reasonable doubt.

39.19 The money was withdrawn on the instructions of the First Respondent. At the time the money was withdrawn from the bank there was a shortage on client account. The Second Respondent stated she had given the First Respondent the money. The Tribunal had found her to be a credible witness and there was no evidence before the Tribunal from the First Respondent stating that he never received the money from the Second Respondent. The First Respondent should have ensured that Mrs S received the money. In not doing he had not protected client money and assets and had breached Principle 10. Allegation 2.2.3 was proved beyond reasonable doubt. In acting in this way the First Respondent had not behaved in a way that maintained the trust that the public placed in him and the provision of legal services. He had breached Principle 6. Allegation 2.2.2 was proved beyond reasonable doubt.

The Tribunal's Findings - Second Respondent

39.20 The client had never received the money. The Tribunal found allegation 2.2.4 proved beyond reasonable doubt. The Second Respondent had not complied with Rule 14.3 of the SAR.

39.21 The Tribunal accepted that the Second Respondent had not known until after the event that the client had never received the money. However by the time that this money was withdrawn from the bank the Second Respondent was aware that there was a shortage on client account and she should have taken more steps to ensure that Mrs S received the money. In not doing so she had not protected client money and assets and had breached Principle 10. Allegation 2.2.3 was proved beyond reasonable doubt. In acting in this way, the Second Respondent had not behaved in a way that maintained the trust that the public placed in her and the provision of legal services. She had breached Principle 6. Allegation 2.2.2 was proved beyond reasonable doubt.

39.22 In respect of the alleged breach of Principle 2 the Tribunal found that the Second Respondent had made the withdrawal with the best of intentions. The fact that she undertook the banking for this transaction was compatible with the Firm's way of working. The First Respondent had provided her with an explanation as to why cash was required and at the time she considered that this explanation was credible. She should have asked for evidence of the client's instructions and her actions were unwise. However the Tribunal could not be sure beyond reasonable doubt that what she did amounted to acting with a lack of integrity. Allegation 2.2.1 was found not proved.

40. **Allegation 3 - Shortly before 17 December 2014 by instructing the Second Respondent to withdraw the sum of £21,000 in cash from the Firm's client bank account and carry it back to the Firm's offices without taking adequate or any steps to safeguard that money, the First Respondent breached Principle 10 of the Principles.**

The Applicant's Case

40.1 Shortly before 17 December 2014 the First Respondent asked the Second Respondent to attend at the Firm's bank to withdraw the sum of £21,000 from the Firm's client bank account, purportedly at the request of the Firm's client, Mrs S. The First Respondent maintained that the money had to be withdrawn in cash. No

additional precautions were put in place to protect either the Second Respondent or the significant sum of client money which she would be carrying between the Firm's Bank and the Firm's office. By recklessly requesting that significant sums of client money be transferred from the Firm's Bank to its office in cash, without suitable precautions being put in place to guarantee its safe transportation, the First Respondent failed to protect client money and therefore breached Principle 10 of the Principles.

The First Respondent's Case

40.2 The First Respondent had not filed an Answer to the Rule 7 Statement and the allegation was treated as denied.

The Tribunal's Findings - First Respondent

40.3 The Tribunal treated the allegation as denied. Principle 10 requires a solicitor to protect client money and assets. The First Respondent had instructed the Second Respondent to withdraw the sum of £21,000 cash. The First Respondent had not arranged adequate or, indeed, any steps to safeguard the money whilst the Second Respondent carried it back to their offices despite the fact it was a significant sum of client money. The Tribunal found allegation 3 proved beyond reasonable doubt. Although nothing had happened to the money whilst it was being transported from the bank to the office the First Respondent had not protected client money and assets.

41. **Allegation 4 - On 17 December 2014, by withdrawing the sum of £21,000 in cash from the Firm's client bank account and carrying the same to the Firm's office without taking adequate or any steps to safeguard that money the Second Respondent breached Principle 10 of the Principles.**

The Applicant's Case

41.1 On 17 December 2014, the Second Respondent attended at the Firm's Bank to collect the sum of £21,000, in cash, from the Firm's client bank account, purportedly on behalf of its client Mrs S, having requested that sum be available from the bank a few days beforehand. No additional precautions were put in place to protect either herself or the significant sum of client money which she would be carrying between the Firm's Bank and the Firm's office. By transporting a significant sum of client money from the Firm's Bank to its office in cash, without suitable precautions being put in place to guarantee its safe transportation, the Second Respondent failed to protect client money and therefore breached Principle 10 of the Principles.

The Second Respondent's Case

41.2 The Second Respondent denied the allegation. The Second Respondent described Hereford as a world and a half away from London and a world away from Birmingham. She always had a large handbag with her and she was not anxious about going and getting the money. She went to the bank practically every lunchtime. The Second Respondent had thought about whether it was ok to do this but had decided it was a two and a half minute walk and it was fine. She appreciated that with hindsight

it might appear odd but at the time she considered it reasonable. The Second Respondent acknowledged that this was a large amount of cash, the next largest sum she had ever taken to or from the bank was around £5,000 and she could not recall if this was client or office monies. The Firm's clients often dealt in cash although this was discouraged when the money laundering requirements were introduced. The Second Respondent acknowledged that this amount was larger than the amounts that she normally took to and from the bank.

41.3 The Second Respondent had considered the risks of transporting the cash and dismissed them as remote. She acknowledged that she could have had an accident or been taken to hospital and then there would have been an issue but this was not something that had ever happened to her and she went to the bank almost daily. It was something she had been doing for years and was perfectly safe. If the Second Respondent was seen out in town with a colleague that would attract comment as it was so unusual for staff members to go out the office together. It was less risky to stick to the Second Respondent's usual routine.

41.4 The Second Respondent had not wanted to ask a junior member of staff to go with her. She had not wanted them to take the "rap" if anything went wrong. By this she meant that she did not want to put a junior member of staff in the position of carrying a large amount of cash. However she was confident to carry the cash and happy to so. Others might not have been. There was no reason for it to go wrong and it had not gone wrong.

41.5 The Second Respondent maintained that she undertook most of the day to day admin tasks, including the daily banking. In her letter dated 31 January 2017 to the SRA she stated that:

> "Herefordshire is a very safe place and folk act and behave at times in ways that they would not if in a big city.
>
> I used to go to the bank on a daily basis. I always seemed to have a capacious handbag and it was very easy to conceal bank books etc and no one would have any idea as to what was concealed in the handbag...Many folks were conducting and depositing both cheques and cash and quite considerable sums would be produced from handbags, carrier bags of all descriptions, briefcases, rucksacks and from their person via jacket or trouser pockets. It is not unusual for some folk to carry large sums of cash."

41.6 In the same document and in respect of collecting the £21,000 for Mrs S, the Second Respondent stated that:

> "The cash was handed to me in a side room out of sight of members of the public. As the cash was placed in a bag inside my capacious handbag it was completely hidden from sight and no one would have been able to tell what my handbag contained. There was nothing to alert anyone to the fact that I was carrying cash. I did consider asking for an "escort" and our cashier did offer to accompany me. Having thought about this, I eventually decided that the sight of two of us visiting the bank together when I would normally go alone would attract "attention" and of itself would indicate that cash was being

transported...... I decided that following my normal routine was the safest option...... Given all of the circumstances I assessed the risk on a scale of zero to five as zero. A correct assessment."

The Tribunal's Findings - Second Respondent

41.7 The Second Respondent had denied the allegation. Principle 10 requires a solicitor to protect client money and assets. The Second Respondent had taken no additional steps to protect the money, she withdrew it as she would have withdrawn any sum of money as part of her banking routine despite the fact it was a significant sum of client money. The Tribunal found allegation 4 proved beyond reasonable doubt. Accepting that nothing had happened to the money whilst it was being transported from the bank to the office the Second Respondent had not protected client money and assets by transporting it as she did.

Previous Disciplinary Matters

42. There were no previous matters in respect of either the First or Second Respondent.

Mitigation

43. The First Respondent had not provided any mitigation or evidence of his means. A character reference had been received from Mr Lee (who was the solicitor who had previously represented the First Respondent). The Tribunal read this reference and noted its contents.

44. The Second Respondent told the Tribunal that she found herself before the Tribunal largely as a result of the actions of the First Respondent. She had trusted the First Respondent but her trust in him had been misconceived. The Second Respondent said that she had not carried out the actual acts relating to the allegations of misconduct. She had no personal motivation for any of the acts of misconduct, she had not given instructions for them either. She had only known about them after the event. In the S matter she had not known that Mrs S had not received the money for as much as seventeen months after she took it out the bank. The Second Respondent submitted that the misconduct was solely the responsibility of the First Respondent. He was not hear to explain himself as why his previously unblemished career had gone off the rails.

45. The Second Respondent told the Tribunal that she too had had a previously unblemished career. She was sixty six years old and had retired. She had no intention of applying for a Practising Certificate and returning to the profession. The Second Respondent explained that she had applied to voluntarily remove her name from the Roll of Solicitors but that application had been refused due to the disciplinary investigation.

46. The Second Respondent stated that she had co-operated with the SRA throughout these proceedings and throughout the Intervention. As soon as anything had been put to her by the SRA she had responded. On twenty five or twenty seven occasions she had gone to the Firm's offices to assist with the sorting of documents and to resolve as

much as possible. She estimated she had spent one hundred and ten hours on that operation.

47. The Second Respondent had provided a Statement of Means. She confirmed that the contents of this document were still correct except for the fact that her energy bills had increased. She had been made bankrupt and the assets she had had (namely her bank account and equity in her house) now belonged to the Trustee in Bankruptcy.

Sanction

48. The Tribunal referred to its Guidance Note on Sanctions (5th Edition – 2016) when considering sanction.

The First Respondent

49 The Tribunal approached sanction in respect of all matters collectively. The First Respondent's culpability was very high. There was limited information before the Tribunal as to his motivation but monies had been used to pay HMRC. His misconduct was planned. It was a clear and blatant breach of trust. He had direct control of the circumstances giving rise to the misconduct and he was a very experienced solicitor with over forty years' experience at the time of the misconduct. The harm caused was significant and there had been over £166,000 claimed against the Compensation Fund to date.

50. Clients had sustained considerable financial loss. The fact that a solicitor behaved in this was would have a significant impact upon the public and the reputation of the profession. The First Respondent's behaviour was a complete departure from the standards of integrity, probity and trustworthiness expected of a solicitor. His misconduct was intended and would have caused distress and upset to the clients involved. The level of harm was very high.

51. Dishonesty had been alleged and found proved in respect of a number of the allegations. The misconduct was deliberate, calculated and repeated and continued over a period of time. The First Respondent had assured the Second Respondent that he would rectify matters but never did. He had prepared bills but they had never been sent out. This was an attempt to conceal his wrong doing. The Second Respondent had told the Tribunal of the high regard the First Respondent had been held in locally. He had misused his position and duped his business partner. The First Respondent had acted in breach of a position of trust. He must have known that his conduct was in material breach of his obligations to protect the public and the reputation of the profession. These were all aggravating factors.

52. There were no mitigating factors. The Tribunal noted that the First Respondent had made certain, limited admissions. Overall the Tribunal assessed the seriousness of the misconduct to be very high.

53. The Tribunal considered the appropriate sanction. Given the seriousness of the misconduct it moved swiftly through the range of sanctions available to it. No Order, a Reprimand and a Fine were not appropriate. Nor did a Suspension reflect the

seriousness of the misconduct. Striking Off the Roll of Solicitors was the appropriate sanction.

54. The Tribunal then considered whether there were any exceptional circumstances that would enable it to consider a suspension as an appropriate sanction. Other than the letter from Mr Lee, there was no mitigation or other information before the Tribunal. There was no evidence of exceptional circumstances. Dishonesty had been alleged and proved and absent exceptional circumstances the appropriate sanction was for the First Respondent to be Struck Off.

The Second Respondent

55. Again, the Tribunal approached sanction in respect of all matters collectively. The Second Respondent's culpability was low. She had had no motivation for the misconduct. Some of her actions had been planned, such as withdrawing the money from the bank, but these actions had occurred as a result of her being misled. She was, also, a very experienced solicitor, having qualified in 1975. Lack of integrity had been alleged but not found proved. Her actions were as a result of the reliance that she placed on the representations made to her by her business partner of many years whom she trusted. This trust was misplaced and harm had been caused.

56. Transporting the £21,000 in cash was misconceived and demonstrated a lack of judgement. The knowledge that the Second Respondent had done this would have impacted upon those directly or indirectly affected by her actions, the reputation of the profession and how the public perceived the profession. Although the money had safely reached the offices, harm could reasonably foreseeably have been caused by the Second Respondent's actions.

57. The Second Respondent did not have her finger on the pulse. She chose not to see the monthly reconciliations and did not know whether or not the First Respondent had done what he said he would do to rectify the situation. By not ensuring she knew what was going on it was reasonably foreseeable that harm could be caused.

58. The Second Respondent was a partner in the Firm, she was first aware of the shortage in November 2013 and gave the First Respondent an opportunity to rectify it. By allowing the situation to continue and worsen the Second Respondent acted in breach of a position of trust. Although she did not actively conceal the wrongdoing she did not report it to the Regulator or put measures in place to ensure further transfers could not occur. The Second Respondent must either have known or ought reasonably to have known that her conduct was in breach of obligations to protect the public and the reputation of the profession. These were aggravating factors.

59. By way of mitigating factors the misconduct had arisen as a result of deception by the First Respondent, the Second Respondent co-operated with the Regulator and had made a number of admissions in these proceedings. She had attended the Firm's office on numerous occasions after the Intervention to assist. The Second Respondent clearly took the matter seriously and had shown insight. The First Respondent had left the Second Respondent to sort out the closure of the Firm and the subsequent Intervention. The overall assessment of the misconduct was as serious misconduct.

60. Although the Second Respondent's culpability was low the overall seriousness of the misconduct was not, and No Order was not appropriate. Nor was a Reprimand sufficient sanction. The protection of the public and the reputation of the profession did not justify Suspension or Strike Off and the appropriate sanction was a Fine.

61. The Tribunal assessed that the misconduct was within the 'more serious' range and noted that the suggested level of Fine for such misconduct was between £7,501 and £15,000. The Tribunal assessed that in all of the circumstances of this case the appropriate Fine was £10,000. The Tribunal went on to consider whether or not the Fine should be reduced in light of the Second Respondent's means. The Second Respondent was a discharged bankrupt and she had produced evidence of her limited means. Her income was limited and she had no assets. In light of the Second Respondent's means the Tribunal reduced the fine to £5,000.

62. The Second Respondent was not practising as a solicitor and had no intention of returning to the profession. In the circumstances the Tribunal did not consider that a Restriction Order was required.

Costs

63. The Applicant applied for its costs supported by a Costs Schedule dated 17 May 2017 which was in the sum of £16,388.70. Mr Bullock informed the Tribunal that this sum needed to be reduced as the hearing had lasted approximately eight rather than eighteen hours and the sum claimed in respect of overnight expenditure had not in fact been incurred. Mr Bullock was in the Tribunal's hands as to whether any costs orders were made jointly and severely or apportioned the costs between the First and Second Respondents. He had no representations to make in respect of the Second Respondent's Statement of Means.

64. The Second Respondent did not have any questions that she wished to raise in respect of the quantum of the costs but considered that any costs order should reflect the fact that these proceedings had occurred because of the First Respondent's actions.

65. The Tribunal calculated that the amended amount claimed for costs was £14,575.70. The Tribunal had heard the proceedings and it was appropriate for it to assess the costs. The First Respondent had been given the opportunity to adduce evidence of his means and had not done so. The Second Respondent had adduced evidence of her means.

66. The Applicant had not proved all of the allegations but had proved the vast majority against the First Respondent and a significant number against the Second Respondent. The allegations had been properly brought and any extra time or money that related to those allegations found not proved was in the Tribunal's view minimal. The allegations had largely been inter-related and allegation 2.1 in the Rule 7 Statement, whilst a stand-alone allegation, arose out of the closure of the Firm and the poor financial records.

67. The Tribunal recognised the Second Respondent's limited means. There was no application that costs should not be enforced without leave of the Tribunal.

68. The Tribunal considered that the Second Respondent was properly liable for a share of the Applicant's costs. Although the misconduct alleged and proved predominantly related to the First Respondent's actions the Second Respondent had known of financial issues as early as Autumn/Winter 2013 and instead of taking steps to ensure that the issues with client account were addressed had simply refused to sign the reconciliations after she became aware of the second transfer. She had not done what she should have done which allowed the First Respondent's actions to continue. The Tribunal considered that the First Respondent should pay approximately two thirds of the costs and the Second Respondent just under one third.

69. The Tribunal then considered whether the costs orders should be reduced due to the Second Respondents' means. There was no evidence as to whether or not the First Respondent would be able to pay any costs order. The Second Respondent's means were limited. The fine that the Tribunal determined appropriate had already been reduced due to the Second Respondent's means. Having considered the Second Respondent's financial position and the case of Solicitors Regulation Authority v Davis and McGlinchey [2011] EWHC 232 (Admin) the Tribunal decided that the amount of costs did not also need to be reduced due to her limited means.

70. There was no information as to the First Respondent's means. To ensure that the Second Respondent was not faced with paying the totality of the costs of the proceedings should the First Respondent not pay the Tribunal did not consider it appropriate that the costs order be made jointly and severely. The Tribunal ordered that the First Respondent do pay costs in the sum of £10,000 and the Second Respondent costs in the sum of £4,575.70.

Statement of Full Order

71. The Tribunal Ordered that the Respondent, JOHN ALLAN JONES, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,000.00.

72. The Tribunal Ordered that the Respondent, LUCINDA JANE ROSEMARY ROWBERRY, solicitor, do pay a fine of £5,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,575.70.

Dated this 12th day of June 2017
On behalf of the Tribunal

A. E. Banks
Chairman

Judgment filed
with the Law Society
on 12 JUN 2017