SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 11616-2017

BETWEEN:

SOLICITORS REGULATION AUTHORITY Applicant

and

STUART MICHAEL STONES Respondent

Before:

Ms A. E. Banks (in the chair)
Mr T. Smith
Dr P. Iyer

Date of Hearing: 4 July 2017

Appearances

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

The Respondent did not appear and was not represented.

JUDGMENT

Allegations

1. The Allegations against the Respondent were that:-

1.1 On various dates between 15 April 2015 and 4 June 2015, he held himself out as having the authority of Ratio Law LLP to send letters to third parties in connection with its practice, when he was not in fact employed by that firm, and did not otherwise have its authority so to do, and was in any event not authorised to practice as a solicitor. He thereby breached any or all of Principles 2 and 6 of the SRA Principles 2011 and Rule 1.1 of the SRA Practise Framework Rules 2011.

1.2 He made untrue and misleading statements in letters dated 14 May 2015 and 4 June 2015, by confirming Ratio Law LLP were instructed by "SFES Capital Limited" and their "client" respectively when they were not. He thereby breached any or all of Principles 2 and 6 of the SRA Principles 2011.

1.3 He made untrue statements in an email dated 15 October 2015 to Andrew O'Neill, the solicitor acting for Ratio Law regarding this matter, by confirming; "other than the two letters provided in your email there are no other letters in circulation" and "The attached letters are the only letters provided", when several letters had been written on the Ratio Law letter-head. He thereby breached any or all of Principles 2 and 6 of the SRA Principles 2011.

1.4 He practised without insurance between April 2015 and June 2015 when dealing with the above matters. He therefore failed to comply with Rule 4.1 of the SRA Indemnity Rules 2013.

2. Dishonesty was alleged with respect to Allegations 1.1, 1.2 and 1.3 .but dishonesty was not an essential ingredient to prove those Allegations.

Documents

3. The Tribunal considered all the documents in the case including:

- Application and Rule 5 Statement with Exhibit SEJ/1 dated 17 February 2017
- Schedule of Costs.

Preliminary Matters

Respondent's Absence

Applicant's Submission

4. The Respondent did not attend the hearing and had not made contact with the Tribunal at any stage during the proceedings.

5. The Applicant applied to proceed in absence. The proceedings had been advertised in the Law Society Gazette on 15 May 2017 and the Yorkshire Post on 16 May 2017. The Applicant had therefore complied with direction for substituted service.

6. The hearing date had been brought to the Respondent's attention and he had therefore voluntarily absented himself. It was in the interests of justice to proceed. There was provision in Rule 19 of the Solicitors (Disciplinary Proceedings) Rules 2007 ("SDPR") for him to apply within 14 days for a re-hearing should he decide to engage after the proceedings concluded. This was a procedural safeguard for the Respondent.

7. The interests of justice favoured expeditious and proportionate disposal of proceedings. There was nothing to be gained by adjourning the hearing to afford him an opportunity to attend.

The Tribunal's Decision

8. The Tribunal recognised that the discretion to proceed in absence should only be exercised with great care and in exceptional circumstances. The Tribunal considered the issue of service and was entirely satisfied that service had been effected. The Respondent was aware of the ongoing proceedings. When attempts had been made to serve him at his parents' address they had contacted him by telephone. He had told them that he did not have time to speak to the process server and he had not subsequently contacted SRA. He was aware of investigation and the proceedings.

9. The Respondent was aware of the date of the hearing and SDPR Rule 16(2) was therefore engaged.

10. The Tribunal had regard to the criteria for proceeding in absence set down in R v Hayward, Jones and Purvis [2001] QB 862, CA and the considerations identified in GMC v Adeogba [2016] EWCA Civ 162. The Respondent had been given ample opportunity to engage in the proceedings and had purposely absented himself. If the matter were to be adjourned he would still not attend and would not be represented. The Tribunal had regard to the protection of public and fairness to all parties. The Tribunal was satisfied that it was in the interests of justice that the case should proceed without delay. The application to proceed in absence was therefore granted.

Service of Notices

11. The Applicant told the Tribunal that because of difficulties in contacting the Respondent, no statutory notices had been served in relation to those documents. In particular no notice to admit under Rule 13(6) of the SDPR had been given and there were no formal production statements from witnesses covering all of the documents.

12. Under Rule 13(10) the Tribunal had discretion not to apply the strict rules of evidence in course of the hearing. The Applicant invited the Tribunal to exercise that discretion to allow the Applicant to adduce the exhibited documents. The Applicant was in difficulty serving statutory notices where a Respondent was not contactable. In this case the documents were voluminous and came from various sources. Serving notices in these circumstances would have been an expensive course and while the Applicant accepted it should have been identified at the case management stage, it was submitted that it was not inappropriate to proceed in this way.

13. The Tribunal was satisfied that it was in the interest of justice to allow the Applicant to adduce the documents by directing that the strict rules of evidence not apply pursuant to SDPR Rule 13(10). The Respondent was aware of the proceedings and the material and had not indicated any challenge to the documents.

Factual Background

14. The Respondent was born in October 1967 and was admitted as a solicitor on 1 March 2002. His name remained on the Roll. At the time of the hearing he did not hold a current Practising Certificate. He had previously held an unconditional practising certificate for the period 2014/2015.

15. The Respondent had been a Member at Ratio Law LLP (Ratio Law) of Hanover House, 30 - 32 Charlotte Street, Manchester M1 4FD from 25 January 2010 to mid-January 2015, after resigning on the 1 January 2015.

16. The Respondent had specialised in renewable energy projects. By mid-2014 he had one main client, SFES and its subsidiary, SFES Capital. The main client contact at the company was SC who was a director of SFES Capital.

17. A report was made to the SRA by Ratio Law on 12 October 2015 raising concerns that the Respondent had been holding himself out, as working for and on behalf of the firm, to a third party at a time when he was no longer a member there.

18. SFES Capital was incorporated on 2 July 2014. The Respondent had been a director and shareholder from 2 July 2014 to 19 January 2015. He had also been a director at SFES, resigning when the company started trading in 2014. At the material time and after his resignation from Ratio Law he was working as a consultant for SFES, dealing with projects, on a contingency basis. SFES Capital was to assist with the purchase of solar projects involving OPL and RL. Following his resignation and departure from Ratio Law, letters of comfort dated, 15 April 2015, two of 14 May 2015, 3 June 2015, and 4 June 2015 had been written by the Respondent on letter-headed paper of Ratio Law.

19. DCH Law were instructed by NP of OPL and RL to make a claim against the Respondent regarding the misrepresentations made in the letters dated 15 April 2015 and two letters dated 14 May 2015, to induce their clients to enter into contracts. The claim was not proceeded with but Ratio Law was made aware that their letterheads had been used.

Allegation 1.1

20. Letters of comfort dated 15 April 2015, two of 14 May 2015, 3 June 2015, and 4 June 2015 had been sent out to NP signed by the Respondent on the letterheads of Ratio Law. These letters were to OPL and RL. The Respondent was no longer a member at Ratio Law when these letters were created, having left the firm in mid-January 2015. He was not authorised by the SRA to practise.

21. On the 7 July 2015 Ratio Law became aware, through a telephone call from NP of RL and OPL, that the Respondent had used their letterheads to write to NP. This was followed up on 12 October 2015 with an email from NP's solicitors confirming that Ratio Law's letterheads had been used by the Respondent and that a claim was being made against him for fraudulent misrepresentation.

22. The Respondent had no authority from the firm to use their letterheads. He was not a consultant at the firm and was not paid any fees as a consultant. The firm had only come into contact with the Respondent after he had left in relation to two matters. In one of those matters, Ratio Law informed the client that the Respondent had left the Firm, and as they did not have the expertise to deal with the request, forwarded the client's email to the Respondent and informed the client in an email dated 30 June 2015; "As Stuart is no longer with Ratio he is not covered by our PI insurance to do the work under the Ratio umbrella - if you are happy for Stuart to do the work under his own name that is fine - Ratio cannot open a file for this and get involved".

23. The Respondent was not a Recognised Sole Practitioner at the time that those letters were sent, nor was he employed in a capacity which would have entitled him to practise in England and Wales.

Allegation 1.2

24. The letter dated 14 May 2015 addressed to OPL confirmed "we are instructed by "SFES" to assist with the purchase of a number of solar PV, biomass and CHP projects". The letter dated 4 June 2015 addressed to NP, Director of RL, referred to WSSSH. The letter confirmed "we are instructed by our client to assist with the purchase of the referenced solar housing project, [WSH] ....."

25. Joanna Norris, a member of Ratio Law, in a witness statement dated 13 September 2016, confirmed that none of the archived files for SFES at Ratio Law, nor any of the general descriptions of all the firm's files on their accounts software had any reference to the matters in the above letters dated 14 May 2015 and 4 June 2015. Accordingly Ratio Law had not been instructed to deal with these projects.

Allegation 1.3

26. Ratio Law instructed the Andrew O'Neill of O'Neill Chambers Solicitors to act for them in the matter of having their letterheads used by the Respondent. On the 13 October 2015 Andrew O'Neill wrote to the Respondent regarding the letters of 4 June 2015 and 14 May 2015. The letter stated "Those letters purport to confirm a continuing relationship with our client on your part and further purport to suggest that our client continued to act for SFES Capital Limited, both at the date of correspondence. Neither of these statements is correct."

27. In response, in an email dated 15 October 2015 the Respondent stated: "Other than the two letters provided in your email there are no other letters in circulation". He had further stated; "The attached letters are the only letters provided". Further letters had in fact been written and received by NP as described above in relation to Allegation 1.1.

Allegation 1.4

28. The Respondent did not have professional indemnity insurance when he wrote the letters of comfort.

Witnesses

29. None.

Findings of Fact and Law

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

31. In considering all the Allegations, the Tribunal did not draw any adverse inference from the Respondent's failure to attend or give evidence. Although it would have been entitled to consider drawing such an inference pursuant to Practice Direction 5, the Tribunal confined the basis of its findings to the written and documentary evidence placed before it.

32. **Allegation 1.1: On various dates between 15 April 2015 and 4 June 2015, he held himself out as having the authority of Ratio Law LLP to send letters to third parties in connection with its practice, when he was not in fact employed by that firm, and did not otherwise have its authority so to do, and was in any event not authorised to practice as a solicitor. He thereby breached any or all of Principles 2 and 6 of the SRA Principles 2011 and Rule 1.1 of the SRA Practise Framework Rules 2011.**

Applicant's Submissions

32.1 The Applicant submitted that the Respondent had no authority from Ratio Law to use their letterheads. By signing the letters of comfort for and on behalf of Ratio Law, he held himself out as having authority to send them when he knew he did not have such authority. The letter-heads were used in order to gain the confidence of the recipients. No solicitor of integrity would use the letter-heads of a former firm without their consent. The Respondent had therefore breached Principle 2. A member of the public would expect a letter on a solicitor's letterhead to have come from that firm. Accordingly, the Respondent had diminished the trust the public placed in the Respondent and in the provision of legal services in breach of Principle 6.

32.2 The Witness Statement of Joanna Norris effectively rebutted the explanation given by the Respondent, set out in full below. Her evidence was unchallenged as the Respondent had not required her to attend to be cross-examined and the Tribunal was therefore invited to accept her evidence in full.

32.3 The Applicant submitted that the Respondent's actions were dishonest in accordance with the test for dishonesty accepted in Bultitude v Law Society [2004] EWCA Civ 1853 as applying in the context of solicitors disciplinary proceedings i.e. the

combined test laid down in Twinsectra Ltd v Yardley and Others [2002] UKHL 12, the test being that a) the person has acted dishonestly by the ordinary standards of reasonable and honest people and b) realised that by those standards he was acting dishonestly.

32.4 In using Ratio Law's letterhead without authority to send letters of comfort to third parties the Respondent had acted dishonestly by the ordinary standards of reasonable and honest people and therefore met the objective test in Twinsectra.

32.5 The Respondent must have been aware that his actions were dishonest by those standards. The use of Ratio Law's letterhead on a number of occasions without authority was necessarily an act of "conscious impropriety". A letter providing proof of funding on a solicitor's letterhead would carry considerable weight with the recipient. In the email dated 15 October 2015 to Andrew O'Neill the Respondent had said; "I clearly recognise that I have done wrong and I truly accept whatever consequences follow. If you need me to do anything further to ensure that Ratio Law's reputation or liability is not prejudiced please let me know and I will gladly undertake whatever action is necessary" This, the Applicant contended, evidenced that the Respondent knew subjectively what he did was dishonest

32.6 The Applicant submitted that an adverse inference could be drawn from the Respondent's failure to provide a proper explanation of his actions pursuant to the Tribunal's Practice Direction 5 dated 4 February 2013 following the case of Iqbal v Solicitors Regulation Authority [2012] EWHC 3251 (Admin).

Respondent's Position

32.7 The Respondent had not filed an Answer to the proceedings but had written a letter to a Regulatory Supervisor at the SRA on 8 June 2016. In that letter he had stated the following:

> "Whilst I accept that I did agree to resign as a partner for Ratio Law LLP on 1st January 2015 it was my understanding that I would continue to assist and act on any legal matters (including work for existing clients) on a consultancy basis. This included, as previously stated, work, which I undertook for the firm on [PAF] and [AM].
>
> Equally, as a founding partner to the Firm it was always my intention that I would continue to work closely with Ratio Law and any new legal instructions that could be passed (including work which I could personally undertake) would also continue. I continued to have a close relationship with my fellow partners including where I could assisting [sic] the firm in obtaining new instructions and continuing to guide my existing clients to the firm.
>
> In respect of the letters issued to [RL] and [OPL] it was never my intention to act fraudulently other to try and generate business for the firm and for SFES Capital (a subsidiary of [SFES] as an existing client to utilise Ratio Law's services in their legal matters".

The Tribunal's Decision

32.8 The Respondent's membership of Ratio Law had ended by mid-January 2015. The Tribunal noted that Ms Norris had set out in some detail the circumstances of his departure from the firm. She had stated "There was no express agreement with Mr Stones that he would remain as a consultant or, indeed, connected with Ratio in any capacity whatsoever". This was unequivocal and unchallenged evidence which the Tribunal accepted. The letters forming the basis of Allegation 1.1 were all sent at least 3 months after his departure. This ruled out the possibility of mistake or misunderstanding as to the exact date in January 2015 when he left. There was no doubt that by April he had left the firm. The Tribunal rejected the Respondent's assertion in his letter of 8 June 2016 that it was his understanding that he would continue to assist and act on a consultancy basis. The Respondent had no basis for believing that to be the case.

32.9 The Tribunal examined the letters that had been sent out and they were clearly on Ratio Law letter-headed paper. The letters were all signed by the Respondent personally using his name signature. The typed signature read "Stuart Stones, For and on behalf of Ratio Law LLP". In the absence of any continuing relationship with Ratio Law, the Respondent had no legitimate basis for using the letterhead or describing himself as writing on behalf of the firm. The Tribunal found the factual basis of the Allegation proved beyond reasonable doubt.

Dishonesty

32.10 The Tribunal applied the two-limb test in Twinsectra.

32.11 The Tribunal considered the objective test. The Tribunal was satisfied beyond reasonable doubt that the acts of a solicitor in sending out several letters on letterhead of a firm he had no connection with would be considered dishonest by the ordinary standards of reasonable and honest people.

32.12 The Tribunal considered the subjective test. The Respondent was dealing with high value cases and had sent several letters, not just one. He was well aware that he was no longer connected to Ratio Law as his departure had been the subject of discussion and negotiation.

32.13 The letters themselves were letters of comfort. Their purpose was to instil confidence on the part of the recipient. The Tribunal noted that the letters of 3 June and 4 June had been edited to remove the reference to the Respondent's direct dial telephone number, leaving only a mobile number for direct contact with him. This would have avoided the recipient of the letters attempting to contact the Respondent at the offices of Ratio Law. The Tribunal was satisfied beyond reasonable doubt that the Respondent knew he was acting dishonestly by the ordinary standards of reasonable and honest people. The Tribunal found the Respondent to have been dishonest in accordance with the test in Twinsectra.

Principle 2 and Principle 6

32.14 The Respondent, by acting dishonestly, had clearly not acted with integrity. As a matter of logic, the trust the public placed in the Respondent and in the provision of legal services was inevitably undermined in circumstances where a solicitor had dishonestly used letterhead of a firm that he had no connection to. The Tribunal was satisfied beyond reasonable doubt that the Respondent had breached Principle 2 and Principle 6.

Rule 1.1 of SRA Practice Framework Rules 2011

32.15 The Respondent was not authorised to practise under as a Recognised Sole Practitioner and he was not employed by Ratio Law, or any other firm. The Tribunal was therefore satisfied beyond reasonable doubt that he was in breach of Rule 1.1.

32.16 Allegation 1.1 was proved in full including the allegation of dishonesty.

33. **Allegation 1.2: He made untrue and misleading statements in letters dated 14 May 2015 and 4 June 2015, by confirming Ratio Law LLP were instructed by "SFES Capital Limited" and their "client" respectively when they were not. He thereby breached any or all of Principles 2 and 6 of the SRA Principles 2011.**

Applicant's Submissions

33.1 This Allegation related to one letter on 14 May 2015 to OPL and one letter on 4 June 2015 to NP. The Applicant submitted that the Respondent had acted without integrity in providing untrue and misleading statements in the letters, in breach of Principle 2. The Respondent was not entitled to say "we are instructed..." in either of the letters. The Respondent must have known that Ratio Law were not acting in either of these matters. No solicitor of integrity would make a statement in a letter that he knew was untrue. He had failed to maintain the trust the public placed in him and in the provision of legal services, in breach of Principle 6. The public would trust that any statement made in a letter on solicitor's letterhead to be strictly true. Consequently, the effect of the Respondent in making the untrue statements concerning who Ratio Law was acting for, would inevitably diminish that trust.

33.2 The Applicant again submitted that the Respondent had acted dishonestly. He was acting for SFES in these matters it was therefore inconceivable that he did not know that Ratio Law were not acting for them.

33.3 The statement was used more than once. The Respondent must have realised that it was important to be truthful in what was relayed on a solicitor's letterhead in dealing with these matters as it would be relied on. The Respondent had chosen to make misrepresentations.

Respondent's Position

33.4 In his letter of 8 June 2016, referred to above, the Respondent had denied intending to act fraudulently. The letter also made clear his position that he believed he had a continuing relationship with Ratio Law.

The Tribunal's Decision

33.5 The Tribunal noted the evidence of Ms Norris in which she stated "I also checked our list of archived files for Solar Future and general description of all our files on our accounts software. None had any reference to the matters in the letters dated 14 May 2015 and 4 June 2015…". This was documentary and written evidence that the representations made by the Respondent in each of these letters were untrue. The Tribunal found the factual basis of the Allegation proved beyond reasonable doubt.

Dishonesty

33.6 The Tribunal again applied the test in Twinsectra.

33.7 The Tribunal was satisfied beyond reasonable doubt that writing a letter containing a statement that was materially untrue would be regarded as dishonest by the ordinary standards of reasonable and honest people.

33.8 The Respondent had been trying to demonstrate credibility by implying that the firm was instructed by these clients. The letters were not sent by accident, indeed the Tribunal had already found that the Respondent had dishonestly held himself out as a solicitor working for Ratio Law by sending them in the first place. The Respondent knew what he was doing and he had accepted he had "done wrong" in his email to Andrew O'Neill on 15 October 2015. The Tribunal was satisfied beyond reasonable doubt that the Respondent knew that his actions were dishonest by the ordinary standards of reasonable and honest people. The Tribunal found the Respondent to have been dishonest in accordance with the test in Twinsectra.

Principle 2 and Principle 6

33.9 The Respondent, by acting dishonestly, had clearly not acted with integrity. The trust the public placed in the Respondent and in the provision of legal services was inevitably undermined in circumstances where a solicitor had dishonestly made false representations in two letters to third parties. The Tribunal was satisfied beyond reasonable doubt that the Respondent had breached Principle 2 and Principle 6.

33.10 Allegation 1.2 was proved in full including the allegation of dishonesty.

34. **Allegation 1.3: He made untrue statements in an email dated 15 October 2015 to Andrew O'Neill, the solicitor acting for Ratio Law regarding this matter, by confirming; "other than the two letters provided in your email there are no other letters in circulation" and "The attached letters are the only letters provided", when several letters had been written on the Ratio Law letter-head. He thereby breached any or all of Principles 2 and 6 of the SRA Principles 2011.**

Applicant's Submissions

34.1 The Applicant submitted that in making the statements set out above, the Respondent had acted without integrity, in breach of Principle 2. The Respondent knew that five letters had been written and signed by him on the letterhead of Ratio Law, not just the two he had admitted to. A solicitor of integrity would not make statements to others

which they knew to be untrue. The Respondent failed to behave in a way that maintained the trust the public places in the Respondent and in the provision of legal services in breach of Principle 6. The public would expect any statement made in a letter written by a solicitor to be strictly true. Consequently, the effect of the Respondent in making statements which he knew to be untrue would inevitably diminish that trust.

Dishonesty

34.2 The Applicant submitted that in making an untrue statement to Andrew O'Neill, the Respondent had acted dishonestly. The Respondent knew other letters had been written on the letter-head of Ratio Law because he had written them. The statements were made to another solicitor and the Respondent would have realised the importance of being truthful particularly in the context that the letter from Andrew O'Neill had been written to him.

Respondent's Position

34.3 The Respondent had not addressed the facts that formed the basis of this Allegation.

The Tribunal's Decision

34.4 The Respondent had admitted to sending the two letters referred to in the letter he had received from Andrew O'Neill. The Respondent was well aware that he had sent more than two. The email to Andrew O'Neill was dated 15 October 2015, only a few months after the Respondent had sent the five letters. These were ongoing cases which had involved the Respondent travelling to London to attend meetings. The statements contained in the email to Mr O'Neill were therefore clearly untrue. The Tribunal was satisfied beyond reasonable doubt that the factual basis of Allegation 1.3 was proved beyond reasonable doubt.

Dishonesty

34.5 The Tribunal again applied the test in Twinsectra.

34.6 The Tribunal was, again, satisfied beyond reasonable doubt that writing a letter containing a statement that was materially untrue would be regarded as dishonest by the ordinary standards of reasonable and honest people.

34.7 The Respondent had been trying to minimise and conceal the extent of his wrongdoing by limiting it to the only two letters that had come to light at that stage. The untrue statements were therefore deliberate and had a purpose. The Tribunal was satisfied beyond reasonable doubt that the Respondent knew that his actions were dishonest by the ordinary standards of reasonable and honest people. The Tribunal found the Respondent to have been dishonest in accordance with the test in Twinsectra.

Principle 2 and Principle 6

34.8 The Respondent, by acting dishonestly, had not acted with integrity. Again, the trust the public placed in the Respondent and in the provision of legal services was inevitably undermined in circumstances where a solicitor had compounded his earlier wrongdoing by dishonestly attempting to conceal it through the making of further untrue statements. The Tribunal was satisfied beyond reasonable doubt that the Respondent had breached Principle 2 and Principle 6.

34.9 Allegation 1.3 was proved in full including the allegation of dishonesty.

35. **Allegation 1.4: He practised without insurance between April 2015 and June 2015 when dealing with the above matters. He therefore failed to comply with Rule 4.1 of the SRA Indemnity Rules 2013.**

Applicant's Submissions

35.1 The Applicant submitted that a letter of claim for the purposes of court proceedings had been sent to the Respondent at SFES on behalf of OPL and RL stating "Our clients claim that you provided fraudulent misrepresentations to induce our clients to enter into contracts, ...and to cause our clients a loss.". It was important in these matters to have professional indemnity insurance in place owing to the nature of the matters being dealt with. The circumstances were such that losses could be sustained if the letters of comfort had been relied on if they were not accurate.

Respondent's Position

35.2 The Respondent had not addressed the facts that formed the basis of this Allegation.

The Tribunal's Decision

35.3 The Tribunal noted that the Respondent had not been included in Ratio Law's indemnity insurance policy as he had left the firm and the SRA had been notified of this. He was not a Registered Sole Practitioner and there was no evidence that he held insurance in his own name. Even if he did have a policy of insurance, it would not have covered him for work undertaken using the letterhead of a Firm to which he had no connection. The Tribunal was satisfied beyond reasonable doubt that he had breach Rule 4.1 of the SRA Indemnity Insurance Rules 2013.

35.4 Allegation 1.4 was therefore proved in full.

36. **Allegation 2: Dishonesty was alleged with respect to Allegations 1.1, 1.2 and 1.3 but dishonesty was not an essential ingredient to prove those Allegations.**

36.1 The Tribunal had considered the issue of dishonesty in relation to each separate substantive Allegation where it had been alleged. It had found dishonesty proved in respect of Allegations 1.1, 1.2 and 1.3 for the reasons set out above.

Previous Disciplinary Matters

37. None.

Mitigation

38. The Respondent had not presented any mitigation.

Sanction

39. The Tribunal referred to its Guidance Note on Sanctions (December 2016) when considering sanction. The Tribunal assessed the seriousness of the misconduct by considering the Respondent's culpability, the level of harm caused together with any aggravating or mitigating factors.

40. The Tribunal assessed the Respondent's culpability. His motivation had been to encourage third parties to deal with him by creating a false impression. The misconduct was planned and the Respondent had full and direct control over the circumstances as he was the one writing the letters on the Firm's letterhead. He was an experienced solicitor who had been operating at partner level in Ratio Law immediately prior to his departure. The Respondent had mislead the regulator as his letter of 8 June 2016 was inconsistent with his letter to Mr O'Neill and with the evidence of Ms Norris. The Tribunal found the Respondent's culpability to be high.

41. In assessing the extent of the harm caused by the misconduct, the Tribunal recognised that there was no evidence of any monetary loss being suffered as a consequence of the Respondent's actions. However the harm to the reputation of the profession was very high. The public would not expect a solicitor to send letters using the letterhead of a Firm to which they had no connection containing statements which were untrue and misleading. This was compounded by the fact that when challenged about them, the Respondent again wrote a misleading and untrue letter in response. The public were entitled to trust a solicitors' letter as being truthful and accurate. The Respondent's actions had severely damaged that trust.

42. The matters were aggravated by the Respondent's dishonesty. Coulson J in Solicitors Regulation Authority v Sharma [2010] EWHC 2022 Admin observed:

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

43. The misconduct was deliberate, repeated and continued over a period of time, albeit a small number of months. He had tried to conceal his wrongdoing by committing further misconduct. He knew he was in material breach of his obligations, including the requirement not to practise without the appropriate professional indemnity insurance policy in place.

44. The Tribunal considered whether there were any mitigating factors but were unable to identify any.

45. The misconduct was so serious that a Reprimand, Fine or Restriction Order would not be a sufficient sanction to protect the public or the reputation of the profession from future harm by the Respondent. The misconduct was at the highest level and the only appropriate sanction was a Strike-Off. The protection of the public and of the reputation of the profession demanded nothing less.

46. The Tribunal considered whether there were any exceptional circumstances that would make such an order unjust in this case. The Tribunal was unable to identify any exceptional circumstances. There was nothing that would justify an indefinite suspension, with or without restrictions. The only appropriate and proportionate sanction was that the Respondent be struck-off the Roll.

Costs

47. The Cost Schedule presented by the Applicant was in the sum of £8,060.80. The Tribunal was invited by the Applicant to summarily assess costs and in doing so to reduce the amount claimed for attending the hearing as it had been concluded in less than a day rather a full day as originally estimated.

48. The Applicant also confirmed that the overnight accommodation costs should be halved as, at one stage, the case had been expected to last up to two days.

49. The Tribunal examined the costs carefully and was satisfied that, with the reductions identified by the Applicant, they were reasonable and proportionate.

50. The Tribunal reduced the attendance from 7 hours to 4 hours as the hearing concluded at approximately 1.25pm. The hotel accommodation was also reduced by 50% as requested.

51. The total costs, with these reductions, came to £7,487.80 and the Tribunal ordered that the Respondent pay the Applicant's costs fixed in that sum.

Statement of Full Order

52. The Tribunal Ordered that the Respondent, STUART MICHAEL STONES 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 £7,487.80.

Dated this 19th day of July 2017
On behalf of the Tribunal

A. E. Banks
Chair

Judgment filed
with the Law Society
on 21 JUL 2017