

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11658-2017

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

JIMOH ADUN

Respondent

Before:

Mr L. N. Gilford (in the chair)

Mr B. Forde

Mr S. Howe

Date of Hearing: 8 March 2018

Appearances

Shaun Moran, solicitor of Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant.

The Respondent did not attend and was not represented.

JUDGMENT

Allegations

1. The allegations against the Respondent made by the Applicant were set out in a Rule 5 Statement dated 31 May 2017. The allegations were that:-
 - 1.1 Between December 2010 and October 2014 he submitted 443 improper claims for costs and disbursements to the Legal Aid Agency (“LAA”) totalling £994,396.70 and thereby breached all, or any, of the following:
 - 1.1.1 Principle 2 of the SRA Principles 2011 (“Principles”) by failing to act with integrity and prior to 6 October 2011 Rule 1.02 of the Solicitors Code of Conduct 2007 (“SCC”);
 - 1.1.2 Principle 6 of the Principles by failing to behave in a way that maintains the trust the public places in him and the provision of legal services and prior to 6 October 2011 Rule 1.06 of the SCC;
 - 1.1.3 Outcome 11.1 of the SRA Code of Conduct 2011 by taking unfair advantage of the LAA.
 - 1.2 By abandoning his practise, removing all client files and computers, containing electronic files, from Nieko Solicitors (“Firm”) and failing to notify the SRA of the Firm’s closure he breached all, or any, of the following:
 - 1.2.1 Principle 2 of the Principles by failing to act with integrity;
 - 1.2.2 Principle 4 of the Principles by failing to act in the best interests of clients;
 - 1.2.3 Principle 6 of the Principles by failing to behave in a way that maintains the trust the public places in him and the provision of legal services;
 - 1.2.4 Principle 7 by failing to comply with his legal and regulatory obligations and deal with his regulators and ombudsmen in an open, timely and co-operative manner;
 - 1.2.5 Principle 10 of the Principles by failing to protect client assets;
 - 1.2.6 Outcome 10.13 of the SRA Code of Conduct 2011 by failing to effect an orderly and transparent wind down of activities, including informing the SRA before the Firm closed.
2. Dishonesty was alleged with respect to allegation. Dishonesty was not an essential ingredient to prove the allegation.

Documents

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

Applicant

- Application and Rule 5(2) Statement dated 31 May 2017 and exhibit “MNG1”
- Forensic Investigation Report of Stephanie Young dated 29 September 2016
- Witness Statement of Mr N Sihota (on-site LAA auditor) dated 20 September 2016 and exhibits “NS1” and “NS2”
- Witness Statement of Ms N Willis (Senior Investigations Officer LAA) dated 20 July 2016
- Witness Statement of Mr D Cooper (Operational Assurance Analyst LAA) dated 31 August 2016
- Witness Statement of Ms K Early (Operations Manager HMCTS) dated 15 September 2016
- Witness Statement of Mrs SB dated 12 August 2016
- The Applicant’s Schedule of Costs dated 31 May 2017 and 10 October 2017.

Respondent

- The Respondent’s Statement dated 23 October 2017
- The Respondent’s Amended Statement dated 20 December 2017 with exhibit “A”
- Email to the Tribunal dated 7 March 2018.

Applicant’s Application to Proceed with the Hearing in the Respondent’s Absence

4. The Respondent did not attend the hearing and Mr Moran applied to proceed in the Respondent’s absence.
5. The Respondent was clearly aware of the hearing. He had sent an email dated 7 March 2018 in which he stated “I refer to the matter due to be heard tomorrow. Unfortunately, I would not be in a position to undertake the journey to England and attend the hearing due to circumstances beyond my control”. He added “I regret my inability to attend and I hope and pray for a fair outcome.” In that email he acknowledged that he had received the papers on 16 November 2017.
6. Mr Moran referred the Tribunal to the relevant legal principles set out in R v Jones [2002] UKHL 5 and General Medical Council v Adeogba [2016] EWCA Civ 162. He outlined the factors that must be considered by the Tribunal when determining whether or not to proceed in the Respondent’s absence. The starting point was that a Respondent had a right, in general, to be present at the hearing of allegations made against him. However, the Tribunal, had a discretion under Rule 16(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 to proceed with the hearing in the absence of a respondent. Lord Bingham in Jones had said that that discretion had to be exercised with great care and it was only in rare and exceptional circumstances that it should be exercised in favour of the hearing continuing in the absence of the respondent.
7. In Adeogba, it was held that whilst the principles outlined in Jones were the starting point, it was important that the analogy between a criminal prosecution and regulatory proceedings should not be taken too far. In a criminal prosecution steps could be taken to enforce attendance by a defendant; in regulatory proceedings the respondent

could not be compelled to attend. The decision whether or not to proceed in respondent's absence, should be made in the context of the Tribunal's duty to protect the public.

8. The Tribunal decided that it should exercise its power under Rule 16(2) to hear and determine the application in the Respondent's absence. The Respondent was aware of the hearing. He had not explained why he could not attend and the Tribunal decided that he had voluntarily absented himself.

Application to Amend the Rule 5 Statement

9. Having retired to consider its findings the Tribunal sought clarification from Mr Moran in respect of allegation 1.2. The original wording of that allegation was that "By abandoning his practise, removing all client files and computers, containing electronic files, from Nieko Solicitors ("firm") and failing to notify the SRA of the firm's closure he breached all, or any, of the following...". Given the Tribunal's query (set out at paragraphs 25.9 and 25.10) Mr Moran applied to remove the word "all" from the allegation.
10. The Tribunal considered the application. It was mindful that the Respondent was not present and that he had a right to know the case against him. The Tribunal understood that the Respondent denied removing files and computers. If the word "all" was omitted then the scope of the allegation against the Respondent was in fact narrower. There was no injustice to the Respondent in the amendment of the wording and the application to amend the wording of allegation 1.2 was granted.

Factual Background

11. The Respondent was born in November 1962 and was admitted to the Roll on 2 March 2009. The Respondent used to reside in Hertfordshire but it had been established that he currently resided in Nigeria. At the date of the hearing, his name remained on the Roll but he did not hold a current practising certificate.
12. The Firm commenced trading in July 2011. At the date of the Intervention the Respondent was the sole principal. The Firm held contracts from the LAA in crime, mental health and prison law.
13. A forensic investigation was commissioned by the Applicant's Supervision Department because of concerns raised in a report to the Applicant by the LAA dated 28 November 2014.
14. Intervention Agents first visited the Firm's offices on 2 December 2014. The forensic investigation commenced on 5 December 2014 and resulted in a Forensic Investigation Report ("FIR") dated 29 September 2016.

Witnesses

15. The Tribunal heard evidence from Stephanie Young, Forensic Investigation Officer ("FIO") and Nina Willis, a Senior Investigation Officer at the LAA.

16. The FIO had been a FIO for 17 years and had conducted approximately 170 investigations. She had not personally attended the Firm's offices as the Intervention officers had found them abandoned. She had not met the Respondent. The FIO had met with Mrs Early for the purposes of her investigation. She had also reviewed files that the LAA had uplifted as part of its investigation. The Applicant itself did not hold any files.
17. The Respondent stated that the Applicant had cherry picked the evidence it wished to use for maximum impact in this case rather than providing all the evidence to establish the truth. He asked why there were no witness statements from the Firm's crime and prison law department supervisors both of whom were solicitors. He also asked why there was no statement from the mental health department supervisor, practice manager or the assistant practice manager. Further why were there no statements from recent staff members including remote workers whose details were notified to the LAA during the planned audit. He asked where the exchange of emails between the LAA and the Firm was. The Respondent said that the Applicant would prefer the Tribunal to rely on the statement of Mrs SB who left the Firm three years prior to the events of November 2014.
18. The FIO denied that she had cherry picked evidence. There were no concerns raised apart from about the mental health department. The FIO had been able to contact Mrs SB, who was a former employee of the Firm. She had tried but failed to contact Mr MC by telephone, email and letter. The FIO did not believe that Mr MC was a solicitor. He had been on the Mental Health Panel.
19. 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

20. 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 their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Provisions contained in the SCC 2007, the Principles and the SCC 2011

21. SCC 2007

“Rule 1.02 of the SCC 2007 - You must act with integrity.

Rule 1.06 of the SCC 2007 – You must not behave in a way that is likely to diminish the trust the public places in your or the legal profession.”

22. The Principles

“**Principle 2** – You must act with integrity.

Principle 4 – You must act in the best interests of each client.

Principle 6 – You must behave in a way that maintains the trust the public places in you and in the provision of legal services.

Principle 7 – You must comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner.

Principle 10 – You must protect client money and assets.”

23. SCC 2011

“**Outcome 10.13 of the SCC 2011** – once you are aware that your firm will cease to practise, you effect the orderly and transparent wind-down of activities, including informing the SRA before the firm closes.

Outcome 11.1 of the SCC 2011 – you do not take unfair advantage of third parties in either your professional or personal capacity.”

24. Allegation 1.1 - Between December 2010 and October 2014 he submitted 443 improper claims for costs and disbursements to the LAA totalling £994,396.70 and thereby breached all, or any, of the following:

1.1.1 Principle 2 of the Principles by failing to act with integrity and prior to 6 October 2011 Rule 1.02 of the SCC;

1.1.2 Principle 6 of the Principles by failing to behave in a way that maintains the trust the public places in him and the provision of legal services and prior to 6 October 2011 Rule 1.06 of the SCC;

1.1.3 Outcome 11.1 of the SRA Code of Conduct 2011 by taking unfair advantage of the LAA.

The Applicant’s Case

24.1 On 28 November 2014 the LAA raised its concerns with the Applicant as to the validity of the Firm’s claims for payments for applications to and attendances at the First Tier Tribunal (Mental Health) (“FTT”). The LAA had, on or about 29 August 2014, received 36 civil and 44 crime files from the Firm in order to carry out an off-site file audit. The audit raised concerns with regard to the Firm’s mental health claims for costs to the LAA including disbursements. Thereafter the LAA had carried out an investigation of the Firm’s claims and identified that between December 2010 and October 2014 the Firm had submitted claims for an application or a hearing that had not taken place on 443 occasions. The LAA assessed that the Firm had received a total of £994,396.70 in unsubstantiated claims.

- 24.2 The Applicant had been provided with a spreadsheet from the LAA of the improper claims for costs and disbursements submitted by the Firm to the LAA. The spreadsheet identified that all of the claims were submitted by the Respondent.
- 24.3 The FTT carried out a review of their records with respect to 14 client matters, allegedly conducted by the Firm, for applications to and attendances at the FTT. The FTT were able to confirm that in the 14 client matters either one or more of the following were applicable:
- There was a genuine FTT case reference but this did not relate to the named client; or
 - The legal representative on the FTT records was not the Firm; or
 - The names of the clients were not genuine; or
 - The dates of birth of the clients were not genuine; or
 - No record of an FTT hearing on the alleged dates; or
 - The alleged FTT members did not exist.
- 24.4 The FIO reviewed a total of 14 of the Firm's client files as the LAA had alleged that the Firm had submitted false claims to them with respect to applications and/or attendance at the FTT. The FIO noted that each of the files reviewed were similar in structure and content as follows:
- Each file commenced with an initial telephone call from the client;
 - Client care letter;
 - Detailed telephone and meeting attendance notes;
 - Detailed mental health and social welfare records;
 - Minimal handwritten documentation;
 - All communication with FTT via fax.
- 24.5 It was noted that all the client matters commenced with a telephone call from the client whilst detained at various mental health institutions throughout England. The clients' telephone instructions would be followed up, within two days, by a visit from a fee earner of the firm regardless of the location. All visits to the client were recorded as one day return visits. The files contained typed attendance notes. It was not evident from the files that any contemporaneous notes were taken during attendances on the clients.
- 24.6 The FIR exemplified five client matters, three of which were set out in the Rule 5 Statement.
- 24.7 Mr A
- 24.7.1 Mr A allegedly instructed the Firm to act on his behalf in his appeal against detention, under section 3 of the Mental Health Act 1983, at Northwick Park Hospital, Middlesex. The fee earner responsible for the matter was recorded as Mrs SB, a trainee solicitor. The relevant client ledger recorded the initials "JN" against all attendances and dealings with Mr A. A client authority for the Firm to act and to access medical records, dated 8 August 2013, allegedly signed by Mr A was retained on the client file. A LAA Legal Help and

Controlled Representation - Mental Health application form was completed on behalf of Mr A. On 8 August 2013 the LAA form was allegedly signed by Mr A but not his legal representative. On 8 August 2013, the client file purported to show that the Firm submitted an application to the FTT on behalf of Mr A by fax. The legal representative was recorded as Mrs SB (Solicitor).

24.7.2 On 13 August 2013 the client file purported to show that the Firm issued a client care letter to Mr A. The letter advised him that Mrs SB was the caseworker with conduct of the matter under the supervision of Mr MC who was said to be a member of the Law Society's Mental Health Panel. On 16 August 2013 the client file purported to show that the Firm received a fax from the FTT addressed to Mr A. The clerk to the Tribunal advised Mr A that his application to the Tribunal had been received on 8 August 2013. The FTT reference for the case was recorded as MP/2014/01397. The client file did not record any further details of a Tribunal hearing.

24.7.3 On 18 May 2016 the FIO interviewed Mrs SB about her alleged role as the fee earner responsible for the matter. Mrs SB informed the FIO that she had no knowledge of the matter which took place during August 2013. Mrs SB explained that her training contract concluded in May /June 2013 when she left the Firm. According to the Applicant's records Mrs SB's training contract had in fact ended in March 2013.

24.7.4 Ms Willis in her statement to the Applicant reported that her investigations with the LAA and HMCTS identified that in respect of Mr A the Firm submitted a claim to the LAA and received a payment of £582.69. The HMCTS reference related to a different patient with different solicitors. Mrs Early, an Operations Manager employed by HMCTS, in her statement to the SRA reported that the MHT case number was real but did not relate to Mr A. There were no previous records of MHT hearings under his name.

24.8 Mr F

24.8.1 Mr F allegedly instructed the Firm to act on his behalf in his appeal against detention, under s2 of the Mental Health Act 1983, at the Royal Derby Hospital Derbyshire. The fee earner responsible for the matter was Mrs SB, trainee solicitor. On 1 April 2014, a telephone attendance note recorded an alleged telephone call from Mr F requesting representation. The telephone note recorded that "SB" informed him "...I will need to book a legal visit and attend to take his instructions and let him know when, a visit has been scheduled for". An attendance note recorded that there was a personal attendance on Mr F on the same day he telephoned the Firm. The travel time was recorded as 226 minutes and disbursements incurred of £116.37. The relevant client ledger recorded the initials "SB" against all attendances and dealings with Mr F.

24.8.2 Client authorities dated 1 April 2014 and allegedly signed by Mr F authorised the Firm to act and to gain access to medical records. The LAA Legal form was completed on behalf of Mr F. The application was to allow him to be

represented before the MHT. The form was not signed by Mr F or his legal representative and was undated.

- 24.8.3 On 8 April 2014 the client file purported to show that the Firm issued a client care letter to Mr F. The letter advised him that Mrs SB was the caseworker with conduct of the matter under the supervision of Mr MC who was said to be a member of the Law Society's Mental Health Panel. On 8 April 2014 the client file purported to show that Mrs SB received a faxed Notice of Hearing from the FTT. The clerk to the Tribunal advised the Firm that a hearing would take place on 11 April 2014 at 14.30 at the Royal Derby Hospital. The FTT reference for the case was recorded as MP/2014/01480.
- 24.8.4 On 11 April 2014 the Firm's attendance note recorded the details of Mr F's alleged tribunal hearing. This was a typed document and made no reference as to the person in attendance or the author. On 11 April 2014 the client file purported to show that the firm received, by fax, the decision of the FTT. The decision recorded the members of the Tribunal as Mr F Cummings (Judge), Dr K Natu (Tribunal Medical Member) and Mr J Burrows (Tribunal Member) and that the hearing took place at the Royal Derby Hospital on 11 April 2014. Mr F's representative was noted as "Ms" SB. The alleged decision of the FTT was that Mr F continue to be detained.
- 24.8.5 Mrs SB, in her witness statement to the SRA, informed the FIO that she had no knowledge of the matter which took place during 2014. Mrs SB explained that her training contract concluded in May/June 2013 when she left the Firm.
- 24.8.6 Ms Willis, in her statement to the SRA, reported that her investigations with the LAA and FTT identified that the Firm submitted a claim to the LAA in respect of Mr F and received a payment of £3,177.20. HMCTS had no record of this patient. The case reference related to a different patient and different solicitors. Mr Sihota, an Onsite Auditor at the LAA, in his statement to the SRA, reported that Mr F "CW1 unsigned undated, Client detained at Royal Derby Hospital Derbyshire, 8 visits at £116.37 totalling £930.06, £1,200.00 expert report? Neither invoice nor justification, hourly rates? Amend disbursements to £0.00."
- 24.8.7 Mrs Early, in her statement to the SRA, reported that the MHT case number was real but did not relate to Mr F. There was no previous records of MHT hearings under this name. The FIO had informed her of the panel members listed on the MHT decision retained on the Firm's relevant client file and she confirmed that none of the people listed were recorded on the system as being members of the panel.

24.9 Mr G

- 24.9.1 Mr G allegedly instructed the Firm to act on his behalf in his appeal against detention, under s3 of the Mental Health Act 1983, at the Becklin Centre, Leeds. The fee earner responsible was recorded as Mr JN, a caseworker.

- 24.9.2 On 20 January 2014, a telephone attendance note recorded a telephone call from Mr G requesting representation. The telephone attendance note recorded "JN" informed him "...that I will need to book a legal visit and attend to take his instructions and will let him know when a visit has been scheduled for...". On 21 January 2014 a telephone attendance note recorded that Mr JN had booked a visit to see Mr G on 23 January 2014. On 23 January 2014 an attendance file note recorded an attendance on Mr G at Becklin Centre, Leeds but this did not confirm the author of the note. The relevant client ledger recorded the initials "MC" against all attendances and dealings with Mr G.
- 24.9.3 Client authorities for the Firm to act and to access medical records dated 23 January 2014 allegedly signed by Mr G were retained on the client file. An LAA form was completed on behalf of Mr G. On 23 January 2014 the LAA form was allegedly signed by Mr G and his legal representative. On 24 January 2014 the Firm issued a client care letter to Mr G. The letter advised him that Mr JN would be the caseworker with conduct of the matter under the supervision of Mr MC.
- 24.9.4 On 24 January 2014 the file purported to show, an application by fax from the Firm to the FTT on behalf of Mr G. The legal representative was recorded as Mr JN (Legal Representative) and was allegedly signed by Mr JN. On 3 February 2014 the client file purported to show that the Firm received a fax from the FTT addressed to Mr G. The clerk to the Tribunal advised Mr G that his application to the Tribunal had been received on 24 January 2014. The FTT reference for the case was recorded as MP/2014/10489.
- 24.9.5 On 3 March 2014 the client file purported to show that the Firm received a fax copy of the Notice of Hearing of Mr G's Tribunal. This was due to take place on 2 April 2014. On 2 April 2014 the Firm's attendance note recorded the Tribunal hearing was held on behalf of Mr G. This was a typed document which made no reference as to the author. On 11 April 2014 the client file purported to show that the Firm received, by fax, the decision of the FTT. The decision reported the members of the Tribunal as Mrs L Brown (Judge), Dr H Ramsalaly (Tribunal Medical Member and Mr P Torrington (Tribunal Member) and that the hearing took place at Becklin Centre on 2 April 2014. Mr G's representative was noted as Mr JN. The alleged decision of the FTT was that Mr G continue to be detained. On 4 April 2014 the Firm wrote to Mr G and acknowledged that he had no further instructions.
- 24.9.6 The SRA do not hold any record of Mr JN and therefore the FIO was not able to discuss the matter with him. Ms Willis, in her statement reported that her investigations with the LAA and HMCTS identified that "the Firm submitted a claim to the LAA in respect of Mr G and received a payment of £3,412.54. *"Case Ref relates to a different person .HMCTS had no trace of this patient. One of the panel members listed on the decision was deceased at time of tribunal and the others were not tribunal members."* Mr Sihota, in his statement identified the following in respect of Mr G *"...-Client detained at Becklin Centre, Leeds 6 visits at £178.29 totalling £1,069.74 though £2,519.74 claimed? £1,450.00 overclaim. Amend disbursements to £0.00."*

- 24.9.7 Mrs Early reported that the MHT case number did not relate to Mr G and there were no previous records of MHT hearings under this name. The FIO had informed her of the panel members listed in an MHT decision retained on the Firm's relevant client file. She confirmed that none of the people listed were recorded on the system as being members of the panel.
- 24.9.8 The Respondent submitted hundreds of improper claims to the LAA over a period of approximately four years. The claims were improper because they were based on fabricated cases. The cases related to clients that did not exist and hearings that did not take place. There were documents on the client files that were fabricated to give the impression that the claims were genuine. The Respondent's Firm benefitted from the improper claims by receiving almost £1 million in costs and disbursements. The Respondent's integrity and public confidence in him and in the provision of legal services was compromised by his conduct. In addition, by submitting the improper claims he took unfair advantage of the LAA.
- 24.9.9 According to the FIO's evidence, Mrs SB had told her that the Respondent was the person in charge, the files were all in his office. She had been a trainee at the Firm. She had not had a personal caseload. She had not been involved in mental health work, she undertook housing law. The FIO reported that Mrs SB had been very surprised when she had showed her documents and had said that that was the first time she had seen them. Mrs SB's witness statement recorded the fact that the client care letters were not in the form she remembered from her time at the Firm.
- 24.9.10 By the time the Applicant had gained access to the Firm's offices there were no members of staff left. Computers and files had gone.
- 24.9.11 Ms Willis gave evidence. Due to issues raised during a review of the Firm's files in respect of a document purportedly from the MHT which the MHT said did not originate from them, it had been decided that the planned audit visit to the Firm would also be used for an investigation. The Respondent was aware of the planned audit visit but was not given notice of the investigation. As part of her enquiries she had contacted hospitals who said that they either did not know the client or that the client was not there at the time the Firm said they were. The LAA had a right under its contracts to attend Firm's without notice. From recollection there had been seven LAA officers present.
- 24.9.12 The Respondent had been expecting the LAA and was there when they arrived. He had met with them and had had a colleague take notes of that meeting for him. The Respondent had been shown some documents that the LAA had received from the NHS and that had clearly been fabricated. His reaction was to ask what all this was about and to say that he did not know anything about it. Ms Willis estimated that the interview had lasted no more than an hour. Had the Respondent asked her for her notes, which were typed up, he could have had them.

- 24.9.13 There were different ways in which claims could be made electronically to the LAA. In the Firm's case all the claims were submitted by the Respondent. He was the principle as far as the LAA was aware and was totally responsible for submitting all the claims. He had confirmed this to Ms Willis in interview. He had told her that he was responsible for all of the billing and that he was given information by the fee earners. This was consistent with what other staff at the Firm told the LAA.
- 24.9.14 The Respondent had asked for a break during the interview so that he could tell his senior staff what was going on. Ms Willis was aware that the Respondent had met with staff. After that meeting, the Respondent had come back and told her that he had a problem with one of his children and that he had to leave. She never saw him again. She had asked where he was and had been told that he had been looking for files in the basement but she did not know where that basement was. The Respondent did not return with files whilst the LAA were at the Firm.
- 24.9.15 The LAA had subsequently been told by one of the supervisors at the Firm that the Respondent had abandoned his practice.
- 24.9.16 The Respondent's office had been locked and nobody had a key so his computer had not been examined. Other computers had been and the IT specialist had copied information. It was thought that the computers were not linked to each other or connected to a server. The LAA had not gone back and reviewed the data it had obtained as the Firm had closed down and the contracts had ended.
- 24.9.17 The Respondent had told Ms Willis that sometimes he would be put down as the fee earner when he was not and someone else had been, for example a paralegal. He had said people would use his identity and file reference on files that were not anything to do with him. The LAA had attended on two days and spoken to a number of members of staff including the three contract supervisors. Mr MC had been at the Firm during the visit. Ms Willis had not personally interviewed him but had read his interview. Mr MC had said that he was not responsible for the billing and had denied knowing about the false claims. There was no evidence that anyone else at the Firm was responsible for the claims to the LAA.

The Respondent's Case

- 24.10 The Respondent denied the allegations in their entirety. The claims submitted to the LAA were claims made by individual fee earners and verified by LAA and SRA accredited supervisors working for the Firm. The claims were not only submitted by fee earners, but they also invoiced the Respondent for payment and their fees were paid.
- 24.11 The Applicant had failed to produce the Firm's bank account records even though the information was crucial to establishing the truth. At any given time, there were approximately eight fee earners working for the Firm. The Respondent was not responsible for the mental health files which were suspected to be fraudulent. He did

not forge any documents and the handwriting on the documents was not his. The Applicant had failed to show that the Respondent was the fee earner on any of the files.

- 24.12 The Respondent relied entirely on the representation of the supervisors and acted on trust in submitting the claims. The contracts held with the LAA were conditioned on the employment of the supervisors to guarantee quality and accuracy. The Respondent believed that he had acted in compliance with the legal aid contracts by employing a duty solicitor, an SRA accredited prison law solicitor and an SRA accredited mental health supervisor to supervise the crime, prison law and mental health departments.
- 24.13 During previous audits the Respondent was reminded by the auditors that the mandated supervisors were responsible for supervising service delivery under each head of contract. The Respondent followed this guideline always in trusting what the supervisors recommended or verified. He believed the full contract executed should be made available to the Tribunal. He said that he acted honestly and with integrity and did not breach any of the rules stipulated by the Applicant. He was required to act in compliance with the contracts and relied on the expertise of accredited supervisors and he did. There was consequently no breach of public trust or expectation. The Respondent said that this fact was raised with the LAA interviewing staff who now appeared unwilling to provide their interview notes.
- 24.14 The Respondent observed that in her statement Ms Willis asserted that the Respondent was unable to explain the discrepancies in claims made. However he said that she had failed to provide interview notes written during the unannounced investigation visit on 25 November 2014. In his view the whole point of the secretive and illegal LAA investigative visit to the Firm was to ensure that all staff were present in the office. All the staff members were interviewed. The Respondent considered he was entitled to see all evidence against him for appropriate response. Until the interview notes and/or a report of the visit was provided Ms Willis' account or assertions were disputed as untrue and unreliable.
- 24.15 Ms Willis had stated that the Respondent left the office and did not return. This was clearly untrue because he returned to the office with archived files but the LAA's staff were not there. Ms Willis also stated that the Firm's database had been partially captured on 26 November 2014. The Respondent's view was that the release of this information would shed more light on the billing errors blamed on him. It would also counter Mrs SB's false claim that the Respondent had his caseload and files on the floor of his office and that he did everything. The Respondent resented the use of selective evidence against him.
- 24.16 In respect of Mrs SB the Respondent said that she was employed from July 2010 when the Firm commenced business. She was introduced to him by another solicitor who trained at the Firm. She left the Firm in 2010 when the Firm's mental health contract was terminated and went to another firm where she could undertake mental health work. She was not prepared to do prison law work. Mrs SB had failed to return to the Firm when their mental health contract was reinstated. Mrs SB was not retained after her training contract. The Respondent disputed her account and statement and said that they were unrepresentative of events after 2012. Mrs SB had left the Firm on a secondment (which was forced on the Respondent as part of her blackmail) but had

returned to the Firm for a period. The dates she worked at the Firm could only be properly verified from the training record and file retained by the Applicant.

- 24.17 The Respondent believed Mrs SB's employment overlapped with the employment of Mr MC. In Mrs SB statement and the FIO's interview notes she asserted that the Respondent had his own caseload, files were given to him, he issued file numbers, files were all over his office floor and he did everything. The Respondent said that she was describing the old practice of file management and file review prior to 2012 when he had more time to stay in the office. This practice became burdensome on him as he often left to collect his children from school and/or crèche. It slowed down the billing process as the number of files increased and the contract supervisors were employed for that purpose. The LAA auditors also advise this. Therefore the tasks of file management and file review were delegated to contract supervisors. The Respondent was presented with a list of files for billing each month by contract supervisors and he would select sample files to examine before submission of claims to the LAA having been assured of accuracy.
- 24.18 On or about 25 November 2014 the LAA attended the offices of the Firm and handed the Respondent a letter stating that they had replaced the planned audit with an official investigation. The letter confirmed that all payments to the Firm had been suspended and the start of new matters in respect of mental health and prison law were suspended. The Respondent was verbally informed that the LAA representatives wanted to speak to him about a tribunal letter which they believed was forged. The Respondent was shocked by what he was hearing. He was asked to inform staff members of the contents of the letter and of the LAA's request to interview them which he did. There were eight or nine officers from the LAA including IT forensic specialists who broke open computers and removed records without authority.
- 24.19 The Respondent said that he was detained in the conference room by LAA staff until he had provided answers to their questions. He stated that he was compulsorily interviewed by four officers without safeguards for approximately four hours. Detailed notes were taken by the LAA officers although he was not given copies. The notes taken during the interviews with staff members were also not shared with him. The whole experience left the Respondent quite traumatised and he suffered a severe breakdown. He said that the Applicant was aware that he had been suffering from depression but this fact had been omitted from evidence.
- 24.20 In his statement dated 23 October 2017 the Respondent stated that he was not accredited by the Applicant to act as a supervisor under the three legal aid contracts. There were three accredited supervisors and each month on a billing date they notified the Respondent of fee claims from their departments and these were submitted on trust after some checks to the LAA. The Respondent undertook a very small amount of casework due to his management responsibilities and was not accredited to undertake case work in mental health.
- 24.21 The case management programme used by the Firm required that a solicitor's name must be entered on each case record as the supervising lead. A caseworker who was accredited by the Applicant to supervise a legal aid contract and had undertaken case work would appear on the record as the caseworker but the Respondent's name also appeared on the same case file as the solicitor responsible for the case. This was a

flaw in the system which allowed his name to appear on many files giving the impression that he was directly involved in the case.

The Tribunal's Decision

- 24.22 The Tribunal applies the criminal standard of proof. To find an allegation proved the Tribunal had to be satisfied that the Applicant had proved its case beyond reasonable doubt.
- 24.23 In reaching its findings the Tribunal had regard to the Court of Appeal Decision in Wingate and Evans v the Solicitors Regulations Authority and Solicitors Regulation Authority v Malins [2018] EWCA Civ 366. This Judgment helpfully summarised the legal position in respect of integrity and dishonesty and the difference between want of integrity and dishonesty.
- 24.24 The Respondent had lacked integrity. He had made a significant number of improper claims to the LAA. He had personally submitted the claims and had a responsibility to ensure any claims he made were correct. The Respondent did not deny that he had submitted the claims. He was the sole principal of the Firm; if someone, other than him, was committing a fraud on the LAA he should have had systems in place to ensure that this could not happen. The fee earner referred to, in two of the claims, had left the Firm before the matters were alleged to have started. Integrity connotes adherence to the ethical standards of one's own profession. The Respondent had not adhered to these standards. Principle 2 had been breached.
- 24.25 The public expect a solicitor to behave in a way that maintains the trust that the public places in him and in the provision of legal services. The public would not expect a solicitor to submit 443 improper claims to the LAA. The public would expect that a solicitor would make sure that all the claims submitted were proper. The Respondent's actions had not maintained the trust that the public placed in him and in the provision of legal services. Principle 6 had been breached.
- 24.26 The Respondent's Firm held three contracts from the LAA. He had submitted several hundred improper claims to the LAA which had been paid. In doing so the Respondent had taken unfair advantage of the LAA in his professional capacity and had not achieved Outcome 11.1.
- 24.27 Allegation 1.1 was proved in full, beyond reasonable doubt.
25. **Allegation 1.2 - By abandoning his practise, removing client files and computers, containing electronic files, from the Firm and failing to notify the SRA of the firm's closure he breached all, or any, of the following:**
- 1.2.1 Principle 2 of the Principles by failing to act with integrity;**
- 1.2.2 Principle 4 of the Principles by failing to act in the best interests of clients;**
- 1.2.3 Principle 6 of the Principles by failing to behave in a way that maintains the trust the public places in him and the provision of legal services;**

- 1.2.4 Principle 7 by failing to comply with his legal and regulatory obligations and deal with his regulators and ombudsmen in an open, timely and co-operative manner;**
- 1.2.5 Principle 10 of the Principles by failing to protect client assets;**
- 1.2.6 Outcome 10.13 of the SRA Code of Conduct 2011 by failing to effect an orderly and transparent wind down of activities, including informing the SRA before the firm closes.**

The Applicant's Case

- 25.1 Following the report from the LAA, the Applicant's Supervision Unit unsuccessfully attempted to contact the Respondent. On 2 December 2014 an Investigation Officer visited the Firm's premises and found these to be closed and unattended. On 5 December 2014 an SRA Adjudication Panel resolved to intervene into the Firm. The Intervention reasons were given as abandonment of practice and to protect the interest of clients (former or potential) of the Respondent.
- 25.2 The Respondent failed to notify the SRA of the closure of the Firm.
- 25.3 As the Respondent could not be contacted in order to arrange entry to the Firm's premises, the Applicant obtained a High Court Production Order dated 5 December 2014. The Respondent was ordered to produce - "*All and any client files of the Practice*" and "*A list of all files of the Practice transferred to any 3rd party.*"
- 25.4 On 8 December 2014 Intervention Officers of the Applicant's Client Protection Unit attended the firm's offices. The premises were locked and the Intervention Officers did not gain entry to the premises until 11 December 2014. On gaining entry it was discovered that all client files and computers had been removed from the premises.
- 25.5 On 9 February 2015 a second High Court Order was obtained. This authorised the Applicant to attend at the home of the Respondent in an attempt to recover the items listed in the first High Court Order. In addition the second High Court Order requested the Respondent to produce, amongst other things, deeds wills, client ledgers and any computer or hard disks used in connection with the practice. The Applicant did not recover any accounts records. The Respondent had failed to comply with both High Court Orders.
- 25.6 Due to the failure of the Applicant to recover any financial records the FIO had been unable to provide an opinion as to the Firm's liabilities to clients. The Applicant had no details of the Firm's bank accounts. The FIO explained that given the fact that a further Court Order would have been required and the fact that there was likely to be very little money in client account, given the Firm's areas of practice, access to bank accounts was not pursued.
- 25.7 By abandoning his practice, removing all client files and computers, containing electronic files, from the firm and failing to notify the SRA of the Firm's closure the Respondent failed to act with integrity, failed to act in the best interests of clients and failed to behave in a way that maintained the trust the public placed in him and the

provision of legal services. In addition, the Respondent failed to comply with his legal and regulatory obligations and failed to deal with his regulators and ombudsmen in an open, timely and co-operative manner. By abandoning his practice the Respondent also failed to protect client assets.

- 25.8 Mr Moran submitted that the Respondent's Amended Witness Statement contained an equivocal admission to this allegation as he apologised if the Applicant did not learn of the planned closure directly from the Firm. It was his responsibility to notify the Applicant and he had not done so.
- 25.9 The Tribunal having retired decided it needed to ask Mr Moran to clarify the position in respect of whether the Respondent had taken all files and computers and why he said that the Respondent had failed to protect client assets. The Respondent had said that the criminal duty solicitor had transferred files to a new firm. If this was the case the Respondent was not in a position to produce all files. The allegation was worded in such a way as to mean that the Tribunal could not simply omit the word "all".
- 25.10 In respect of client assets Mr Moran said that this referred to client files and any client account collectively. Mr Moran acknowledged the potential issue with the word "all" and applied to amend the Rule 5 Statement as set out at paragraph 9 above.

The Respondent's Case

- 25.11 The Respondent denied the allegation as he was not absent from his Firm without provision for supervision prior to Intervention. He did not risk the confidentiality of clients nor their money or other assets.
- 25.12 The Respondent said that the actions of the LAA forced his initial absence from the office to first retrieve all files from archive and return them to the office and source funds to pay wages and other bills that were due during the first few days of December 2014. Staff were later informed that the Respondent could not pay wages. He could not arrange an orderly wind down because this plan was overtaken by the Intervention.
- 25.13 According to regulatory rules the Respondent believed temporary absences were not prohibited if appropriately qualified solicitors could deputise for a sole practitioner. The prison law and crime department supervisors were appropriately qualified solicitors to deputise and supervise the Firm in his absence.
- 25.14 The Applicant sought to paint a picture of the Firm as a one-man operation and that it was exposed to reckless risks. This was quite disappointing coming from the Applicant. The Respondent was equally surprised that the Applicant was accusing him of removing files and computers when he had provided them with an appropriate written response regarding returned files and the computer retrieved from his home. The Respondent urged the Tribunal to read his response to the SRA's questions at the investigative stage. He did not have any files, documents or computers of the Firm in his possession.

- 25.15 The Respondent had no prior notice of the LAA's intention to suspend all payments to the Firm. He had hoped to secure loans to keep the Firm afloat. Wages, rent and other bills were due in the first week of December. He did his best for three days to obtain financial assistance but was unsuccessful. The decision to close was taken on 28 November 2014. The staff were not prepared to work without remuneration and he could not subject anybody to slave labour or deceptively take on any employment obligation he could not discharge.
- 25.16 The Respondent apologised if the Applicant did not learn of the planned closure directly from the Firm. He was aware that the duty solicitor did contact the LAA who informed the Applicant. Files could not be transferred because they were required by the LAA. The duty solicitor and head of the crime department threatened to leave the Firm immediately and take his duty slots. The Respondent was not an accredited police station representative nor a duty solicitor and could not attend to detained police station or magistrates court clients. Any ongoing cases would have required the supervision of a duty solicitor. Both the Applicant and LAA, by special dispensation, later approved the transfer of duty slots to another firm thereby ending the Firm's crime contract. The loss of the crime contract happened three days after the suspension of all payments. The Respondent stated that he was not aware of any Court Orders against him as he was not residing at the address they were sent to.

The Tribunal's Decision

- 25.17 The Tribunal noted that the Respondent has urged it to read his response to the SRA's questions at an investigative stage. The FIR stated that FIO had been unable to contact the Respondent and there was no response before the Tribunal to the Applicant's letter of 22 November 2016 asking the Respondent for an explanation of his conduct. The Tribunal did not have this information before it. It was a matter for the Respondent to submit his Answer and documentation in support of that Answer. The Tribunal did have the Respondent's Statement and Amended Statement and understood that he denied all of the allegations against him.
- 25.18 The Tribunal accepted Ms Willis' evidence that the Respondent was not present on the second day of the LAA inspection. He may have returned to the office with files when the LAA officers were not present but this was irrelevant for the purposes of the Tribunal's decision making.
- 25.19 The Respondent had not notified the Applicant that the Firm was to close. He had become aware at the end of November 2014 that the Firm would cease to practise. He had not effected the orderly and transparent wind-down of activities. On the Respondent's evidence the criminal duty solicitor had arranged the transfer of some criminal files. There was no evidence before the Tribunal as to what had happened to the other files and computers. The Applicant had not been able to contact the Respondent and had had to apply for a Court Order. When the Applicant had attended the Firm's offices on 2 December 2014 they were unattended and on 8 December 2014 the premises were locked. The Intervention Agents had not been able to gain access until 11 December 2014. The Respondent had not achieved Outcome 10.13.

- 25.20 A solicitor acting with integrity would have ensured that once he knew that his Firm had to close that he effected the orderly and transparent wind-down of activities. Instead the Respondent abandoned his practice and files and computers (containing electronic files) had not been found at the offices. A solicitor acting with integrity would have ensured that he did everything possible to ensure the smooth transition of client matters to another firm in these circumstances. Principle 2 had been breached. By acting in this way the Respondent had not ensured that client assets (namely the clients' files) were protected and Principle 10 had been breached. The Applicant had not been able to locate any details of client account so it was not known whether client money had been lost. The Tribunal did not make any finding in respect of client money.
- 25.21 The public would expect a solicitor to behave in a way that maintained the trust that the public placed in him and in the provision of legal services. Whilst the public would appreciate that the Respondent found himself in a difficult position when the payments from the LAA were suspended the public would not expect a solicitor simply to abandon their practice and offices in the way the Respondent had. Principle 6 had been breached.
- 25.22 The Respondent had not complied with his legal and regulatory obligations. He had not dealt with his regulator in an open, timely and co-operative manner. He had not contacted the Applicant to inform them that the Firm was closing. Irrespective of whether or not he was aware of the Court Orders he should have known his professional obligations and he had not done what he needed to so. Principle 7 had been breached.
- 25.23 Allegation 1.2 was proved beyond reasonable doubt.

26. Allegation 2 - Dishonesty in respect of Allegation 1.1

The Applicant's Case

- 26.1 In the Rule 5 Statement the Applicant had alleged that the Respondent's actions in respect of allegation 1.1 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 person has acted dishonestly by the ordinary standards of reasonable and honest people and realised that by those standards he or she was acting dishonestly.
- 26.2 In the Supreme Court case of Ivey v Genting Casinos (UK) Ltd [2017] UKSC 67, it was held by Lord Hughes that that the test in Ghosh "does not correctly represent the law and that directions based upon it ought no longer to be given". Rather, the correct test was as set out in Royal Brunei Airlines Sdn Bhd v Tan [1995] 2 AC 378, as clarified by the Privy Council in Barlow Clowes International Ltd v Eurotrust International Ltd [2006] 1 WLR 1476 namely "Although a dishonest state of mind is a subjective mental state, the standard by which the law determines whether it is dishonest is objective. If by ordinary standards a defendant's mental state would be characterised as dishonest, it is irrelevant that the defendant judges by different standards".

26.3 Accordingly, Lord Hughes set out the test for dishonesty as follows:

“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

26.4 The Applicant had written to the Respondent and told him that it would be inviting the Tribunal to apply the test as set out in Ivey.

26.5 The Respondent had made improper claims for costs and disbursements to the LAA and in doing so had acted dishonestly by the standards of ordinary decent people.

26.6 The Respondent must have known that his conduct was dishonest because he was aware that the claims for costs were based upon cases that were not genuine. The Tribunal was asked to draw an inference that the Respondent was aware that the cases were not genuine because he was responsible for submitting claims for costs in respect of all of the cases and he was a sole practitioner and benefitted from the costs and disbursements claimed.

26.7 The Respondent had failed to explain the discrepancies and was unavailable during the course of the investigation. He had subsequently abandoned his practice and removed client files and computer records. The Applicant submitted that this was evidence of the Respondent trying to conceal his conduct. An honest solicitor would have co-operated with the LAA and sought to establish which of their fee earners had made the fraudulent claims.

26.8 The question for the Tribunal was whether the Respondent was objectively dishonest by the standards of ordinary decent people having regard to his state of knowledge and belief at the relevant time.

The Respondent’s Case

26.9 The Respondent denied the allegation of dishonesty. The Applicant had made very serious allegations of dishonesty against him in relation to the submissions of claims to the LAA as well as other regulatory breaches. The Respondent expressed concern that the Applicant provided witness statements and samples of case documents it relied on in making the allegations but had said that it did not need to prove dishonesty against him and improperly suggested that a low standard of proof was required by the very serious nature of the allegations. The Respondent was free to make very serious allegations of dishonesty against him but did not need to prove its assertions. The Respondent stated that this must not be permitted as injustice could result and a life be destroyed by a powerful regulatory body. He believed it was unfair

to punish him for the sins of others much as he took responsibility for any personal failures.

The Tribunal's Decision

- 26.10 The Tribunal firstly considered the Respondent's actual state of knowledge. He knew that he had submitted claims to the LAA. He had personally submitted these claims. This is what he had told the LAA and what other fee earners had told the LAA. He was the person who gained financially from these claims- it was his Firm. He knew that claims had been made in the name of Mrs SB for clients allegedly represented at a time when she was no longer working at the Firm. The Respondent knew that the LAA had started an investigation into the improper claims. He knew that he did not attend on the second day of the LAA's visit. He knew that he had not assisted the LAA in uncovering what had happened.
- 26.11 The Tribunal had to ask itself the question as to whether The Respondent's conduct was honest or dishonest by applying the (objective) standards of ordinary decent people. The explanations that the Respondent had provided were not credible. An honest solicitor would have done everything they could to assist the LAA when told of the improper claims. The Tribunal was satisfied beyond reasonable doubt that the Respondent's conduct was dishonest by those standards. Allegation 2 was proved.

Previous Disciplinary Matters

27. None.

Mitigation

28. The Respondent said that the start-up of the Firm was funded mainly by proceeds from the sale of his home as well as loans from third parties. He had a young family. The Respondent had personal difficulty in coping with his family duties and practice of law and/or management of the Firm. Consequently he depended on the supervisory staff employed at the Firm for support. He had responsibility for taking the children to school or crèche in the morning and collecting them in the afternoon. When time permitted he attended the office on some full days or worked remotely. Unfortunately, the demands of his parental duties often conflicted with his professional responsibilities.
29. The Respondent had practised law as a sole practitioner but had not practised as a solicitor since November 2014. The Firm had had legal aid contracts in three categories of law namely mental health, crime and prison law. These legal aid contracts represented approximately 98% of the Firm's revenue.
30. The Firm operated from offices spread over four floors. The Respondent submitted that the office layout had a notable impact on the supervision arrangements put in place. The Firm also had remote workers in various departments.

31. The Respondent's position (as at December 2017) was that he was currently homeless and had suffered a marital breakdown. He was the father of three young children that he had been separated from for three years. He had suffered from depression since the Firm closed.
32. He had not practised as a solicitor for the entire period. He owed numerous debts to various creditors. He had not provided any evidence of his means as he did not have any other way of proving poverty unless he returned to London to claim unemployment and housing benefits.
33. The Respondent was not aware of the letters sent to him by the Applicant on 24 February 2016 and 18 March 2016 as he was not at that address. He asserted that the Applicant knew that and that it had his email address but chose not contact him by email.
34. The Respondent asked the Tribunal not to make a striking off order against him. He believed that a rehabilitative sanction was appropriate in this matter.

Sanction

35. The Tribunal referred to its Guidance Note on Sanctions (Fifth Edition) when considering sanction.
36. The Respondent was completely culpable. His motivation had been financial and his actions planned. He had direct control of and responsibility for the circumstances giving rise to the misconduct. Although his level of post qualification experience was not that significant it was sufficient for him to be able to run his own firm. There had been harm caused by his misconduct. He had not misled his regulator and had not breached a specific position of trust.
37. The Respondent's misconduct meant that the LAA had paid out £994,396.70 in respect of 443 improper claims. This was significant harm to it. The LAA was funded by public money and there was therefore indirect harm to the public as well as considerable harm to the reputation of the profession. The Respondent's actions had been a complete departure from the standards of integrity, probity and trustworthiness expected of him. The extent of the harm was in the Tribunal's view intended. However, at the very least it might reasonably have been foreseen to be caused by the Respondent's misconduct.
38. There were a number of aggravating factors. Dishonesty had been alleged and proved. The conduct was deliberate, calculated and repeated. It had continued over a period of time. The Respondent had told the LAA that he was not responsible for the improper claims and in this way had sought to conceal his wrongdoing. The Respondent must have known that the conduct complained of was in material breach of his obligations to protect the public and the reputation of the profession. The extent of the impact on those affected by the misconduct was extensive. The LAA had lost money, fee earners at the Firm had lost their jobs and with the abandonment of the practice the service to clients, some of whom were imprisoned or detained, was disrupted. Client files had not been recovered meaning it was unclear what advice was required by whom. There

were no mitigating factors. The Tribunal considered that the overall seriousness of the misconduct was at the highest level.

39. The Tribunal considered the range of sanctions available to it commencing with No Order. The seriousness of the misconduct was not low and this was insufficient sanction. None of the factors that indicated a Reprimand was the appropriate sanction were present. A Fine would not provide sufficient protection to the public or the reputation of the profession. A Restriction Order would also not provide sufficient protection to the public or the reputation of the profession. The Tribunal considered whether or not suspension was sufficient sanction. Again this did not provide sufficient protection to the public or the reputation of the profession. The Respondent's misconduct was at the highest level and dishonesty had been found. The need to protect the public and the reputation of the profession combined with the seriousness of the misconduct meant that Strike-Off was the only possible sanction.
40. The most serious conduct involving dishonesty would almost invariably lead to striking off, save in exceptional circumstances. Having decided that this was the appropriate sanction the Tribunal considered whether there were any exceptional circumstances that meant it should be reduced. The Tribunal considered the Respondent's personal mitigation and concluded that there were no exceptional circumstances. Accordingly, it ordered that the Respondent's name be struck off the Roll of Solicitors.

Costs

41. The Applicant had not produced an updated Schedule of Costs for this hearing. Mr Moran sought to rely on the Schedule of Costs prepared from the October hearing. There had been some correspondence since that time but the difference was not significant. His application for costs was in the sum of £14,066.45.
42. The Respondent asked that any order for costs made against him was not to be enforced without the permission of the Tribunal. His financial position meant that he would not be able to pay any costs in the foreseeable future.
43. The Tribunal decided that the Respondent should pay the costs of the proceedings. All allegations had been found proved. The Tribunal considered whether or not it should order detailed assessment of the Applicant's costs in light of the lack of an up to date costs schedule. The Tribunal decided that it had sufficient information to assess the costs. The hearing in October had been adjourned due to the question of service. However, there had been a hearing on that date (with a detailed Costs Schedule supplied) as well as this hearing. The Tribunal noted that the Applicant had claimed for the cost of photocopying. The Tribunal did not consider that this should be recoverable and deducted this from the sum claimed. The Tribunal assessed costs in the sum of £14,000.
44. The Respondent had asked that any costs order should not be enforced without leave of the Tribunal. The Tribunal was mindful that the Respondent had been found to be dishonest. He had not produced any evidence of his means. He had not complied with the Direction made on 25 October 2017 in this regard. It was right that the Applicant

be able to recover its costs and it was not appropriate for the Tribunal to order that the costs order should not be enforced without leave.

Statement of Full Order

45. The Tribunal Ordered that the Respondent, JIMOH ADUN, 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 £14,000.00.

Dated this 13th day of March 2018
On behalf of the Tribunal



B Forde, Solicitor Member
On behalf of L. N. Gilford, Chairman

Judgment filed
with the Law Society
on 13 MAR 2018