SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 11717-2017

BETWEEN:

SOLICITORS REGULATION AUTHORITY	Applicant
and	
JONATHAN DENTON,	First Respondent
LOCKE LORD (UK) LLP	Second Respondent

Before:

Mr A. N. Spooner (in the chair)
Mr P. Lewis
Mr R. Slack

Date of Hearing: 6 November 2017

Appearances

Daniel Purcell, solicitor of Capsticks Solicitors LLP of 1 St George's Road, London, SW19 4DR, for the Applicant.

The First Respondent did not attend and was not represented.

Tom Leech QC and David Reston, solicitor, both of Herbert Smith Freehills LLP, Exchange House, Primrose Street, London, EC2A 2EG, for the Second Respondent.

JUDGMENT ON AN AGREED OUTCOME

Allegations

The allegations against the Second Respondent (being Locke Lord (UK) LLP "the Firm") were made in a Rule 5 Statement dated 15 September 2017. The allegations were that:

> Allegation 2.1 - March 2013 and September 2015 it failed to prevent the First Respondent from involving himself (and holding out the Firm as being involved in) and using the Firm's client account in transactions that bore the hallmarks of dubious financial arrangements or investment schemes and in doing so breached all or any of Principles 2, 4, 6 and 8 of the SRA Principles 2011 ("the Principles");
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> Allegation 2.2 - on dates between September 2012 and March 2015 it failed to prevent the First Respondent from directing or requesting payments into, and transfers or withdrawals from, the Firm's client account which were not related to an underlying legal transaction or a service forming part of the Firm's normal regulated activities in breach of Rule 14.5 of the SRA Accounts Rules 2011 ("SAR");
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> Allegation 2.3 - on dates between September 2012 and March 2015, it failed to have effective systems and controls in place to enable it to identify and assess potential conflicts of interests and in doing so breached all or any of Principles 4 and 8 of the Principles and Outcomes O(3.1) and O(3.2) of the SRA Code of Conduct 2011 ("SCC");
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> Allegation 2.4 - it failed properly to properly supervise the matters relating to Ikaya Limited and Sionne Limited which had been conducted by the First Respondent after:
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> 2.4.1 becoming aware of concerns including on the part of law enforcement agencies, as to the probity of transactions involving the First Respondent in March 2013, May 2013 and January 2014;
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> 2.4.2 identifying a potential conflict of interest affecting the First Respondent in or about July 2014; and
>
> 2.4.3 causing the First Respondent to be placed on "gardening leave" in July 2015,
>
> and in doing so breached all or any of Principles 6 and 8 of the Principles 2011 (Allegation 2.4).

Documents

1. The Tribunal had before it the following documents:-

    - Application and Rule 5 Statement dated 15 September 2015.
    - Proposed Statement of Agreed Facts and Outcome document dated 15 September 2017.
    - Submissions on behalf of the Applicant dated 30 October 2017.
    - Submissions on behalf of the Second Respondent dated 31 October 2017.
    - Selected correspondence dated between 5 October and 1 November 2017

Preliminary Issue

2. The First Respondent did not attend the hearing and prior to considering the proposed Agreed Outcome the Tribunal had to determine whether or not to proceed in the absence of the First Respondent.

3. Those representing the Applicant had sent the Statement of Agreed Facts and Outcome to the First Respondent on 5 October 2017. The First Respondent had been sent the Memorandum of a Hearing dated 24 October 2017. That Memorandum contained the date of this hearing.

4. On 30 October 2017 Herbert Smith Freehills, on behalf of the Second Respondent, had emailed the Tribunal, those representing the Applicant and the First Respondent (at the most recent known email address that they had for him) attaching the Second Respondent's Application for an Order and accompanying documentation. A copy of that Application was sent to the First Respondent's postal address. On 31 October 2017 Herbert Smith Freehills wrote to the First Respondent enclosing the Second Respondent's Submissions in respect of the hearing on 6 November 2017. That letter stated the date and time of the hearing. Herbert Smith Freehills had not heard from the First Respondent.

5. On 1 November 2017 Capsticks sent the First Respondent the written submissions on behalf of the Applicant. Capsticks had not heard from the Respondent.

6. Those representing the Applicant and Second Respondent invited the Tribunal to proceed in the absence of the First Respondent. Mr Purcell submitted that the First Respondent had had the proposed Statement of Agreed Facts and Outcome document for a month and had therefore had plenty of opportunity to comment. Whilst it was appropriate for the Tribunal to take into account the potential prejudice to the First Respondent in proceeding to consider the proposed Agreed Outcome this had to be balanced against proportionality and the potential prejudice to the Second Respondent who had engaged in the proceedings and who had made admissions at an early stage. Of the seven allegations that the First Respondent faced two overlapped with the allegations that the Second Respondent faced.

7. Mr Leech submitted that the fact that the Second Respondent was prepared to make certain admissions in respect of the allegations it faced did not prejudice the First Respondent. This Tribunal was not being asked to make any findings in respect of the First Respondent. It would still be open to the First Respondent to evidence to a different division of the Tribunal at a substantive hearing that whilst there may have been the hallmarks of fraud the transactions were not in fact fraudulent. There was no prejudice to the First Respondent in the Tribunal proceeding to consider the proposed Agreed Outcome.

8. The Tribunal retired to consider whether or not to proceed to consider the proposed Agreed Outcome in the absence of the First Respondent. The Tribunal was satisfied that the First Respondent had been served with the proceedings and had been made aware of this hearing. He had been sent the Statement of Agreed Facts and Outcome and had had an opportunity to consider its contents and make representations.

Accordingly the Tribunal decided to proceed to consider the Agreed Outcome application and to hear submissions from the parties in private.

Factual Background

9. Locke Lord are an international law firm primarily based in the USA with a total of seventeen offices in the USA as well as one in Asia and one in London. The Second Respondent is the Law Society registered entity incorporating the London office.

10. The First Respondent was a member of the Firm from March 2012 to January 2014, following which he was an employee of the Firm until he was put on garden leave in July 2015 pending the conclusion of his three months' notice period in October 2015.

11. The Applicant commenced an inspection in September 2015 which culminated in a Forensic Investigation Report dated 31 March 2016.

Application for the matter to be resolved by way of Agreed Outcome

12. The parties invited the Tribunal to deal with the Allegations against the Second Respondent in accordance with a Statement of Agreed Facts and Outcome dated 15 September 2017. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

13. The Tribunal initially considered the Statement of Agreed Facts and Outcomes on 20 October 2017 in the absence of the parties. On that date the Tribunal decided that, before it could determine whether or not the Agreed Outcome was appropriate, it required additional information. The Tribunal directed written submissions by 30 October 2017 and oral submissions to be heard at a further private hearing on 6 November 2017. Written Submissions were received from the Applicant and the Second Respondent.

14. At the hearing on 6 November 2017 the Tribunal heard oral submissions from those representing the Applicant and the Second Respondent. The Tribunal was assisted by the attendance of David Middleton (Executive Director, Legal Case Direction at the SRA); and Ray LaDriere (General Counsel) and Michael Collins (Managing Partner of the London Office) of the Second Respondent.

15. The Tribunal heard submissions from Mr Leech in respect of the state of settlement of various claims, the position in respect of the bills that had been raised and the inter-relationship between the UK and US law firms. The Tribunal heard submissions from Mr Purcell in respect of the costs that had been agreed between the parties and the appropriateness of the level of fine.

Findings of Fact and Law

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

17. The Second Respondent admitted that:

- On dates between March 2013 and September 2015 it failed to prevent the First Respondent from involving himself (and holding out the Firm as being involved in) and using the Firm's client account in transactions that bore the hallmarks of dubious financial arrangements or investment schemes and in doing so breached all or any of Principles 2, 4, 6 and 8 of the Principles (Allegation 2.1);

- On dates between September 2012 and March 2015 it failed to prevent the First Respondent from directing or requesting payments into, and transfers or withdrawals from, the Firm's client account which were not related to an underlying legal transaction or a service forming part of the Firm's normal regulated activities in breach of Rule 14.5 of the SAR (Allegation 2.2);

- On dates between September 2012 and March 2015, it failed to have effective systems and controls in place to enable it to identify and assess potential conflicts of interests and in doing so breached all or any of Principles 4 and 8 of the Principles and Outcomes O(3.1) and O(3.2) of the SCC (Allegation 2.3);

- It failed properly to properly supervise the matters relating to Ikaya and Sionne which had been conducted by the First Respondent after:

    - becoming aware of concerns about a number of transactions involving the First Respondent in March 2013, May 2013 and January 2014 (allegation 2.4.1);

    - identifying a potential conflict of interest in or about July 2014 (allegation 2.4.2); and

    - causing the First Respondent to be placed on "gardening leave" in July 2015 (allegation 2.4.3),

  and in doing so breached all or any of Principles 6 and 8 of the Principles (Allegation 2.4).

18. The Tribunal reviewed all the material before it and was satisfied beyond reasonable doubt that the Second Respondent's admissions were properly made.

19. The Tribunal considered the Guidance Note on Sanction (December 2016). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Tribunal carefully considered the Statement of Agreed Facts and Outcome document, the written submissions it had received and the oral submissions it had heard.

20. The Tribunal had been told that the Second Respondent had already settled a number of claims, however there were other claims outstanding. It had been difficult for the Second Respondent to ascertain the sums involved but it accepted that £21 million had passed through its client account. There was a lack of clarity about what investors had got back as not all the monies had passed through the client account. The

Second Respondent's bills had been settled by Ikaya rather than by individual investors so again it was unclear as to who had paid what. The Firm's insurance had an excess of $2.5 million dollars which had been paid by the Firm. The balance of the claims settled to date had been met by the Firm's insurers. The equity partners in the UK Firm were also partners in the US Firm.

21. The Tribunal considered the guidance in the case of Bolton v The Law Society [1994] 1 WLR 512 as to the purpose of sanction which was both as a punishment and a deterrent to others. The Second Respondent had been aware of a number of red flags but had not taken the appropriate steps, indeed it had referred matters to the First Respondent whilst he was on gardening leave.

22. The Tribunal had been referred to the case of SRA v Goldberg and White & Case LLP (Tribunal case No. 11592-2016) in which a £250,000 fine had been considered the appropriate sanction in respect of White & Case LLP. In that case, whilst that firm's turnover was significantly greater, there was no allegation of lack of integrity.

23. In addition to the admitted allegation of lack of integrity the Tribunal noted that the misconduct had continued over a period of approximately two and a half years. Whilst it was a mitigating factor that the Second Respondent had settled a number of claims it was of concern to the Tribunal that even at this point the Second Respondent lacked certainty as to the actual position.

24. The Tribunal considered this to be a very serious set of circumstances. The Tribunal acknowledged that the Firm was a separate legal entity to the American firm but noted that there was substantial overlap between the two.

25. The Tribunal was not prepared to agree the Statement of Agreed Facts and Outcome as proposed. The proposed fine of £250,000 did not reflect the seriousness of the matter. The Tribunal explained its decision to the Applicant and Second Respondent and gave them two options. The first was that the matter would proceed towards substantive hearing. This did not preclude the parties presenting a further Agreed Outcome at a later date. The second was that the Tribunal would indicate to the parties the level of fine that it considered appropriate. This was in no way binding on the parties. This was the Applicant's and Second Respondent's preferred option and the Tribunal said that in its view the appropriate fine was £500,000.

26. The Applicant and Second Respondent were given the opportunity to discuss how they wished to proceed. The Second Respondent indicated that it wished to discuss this with the Applicant there and then. Shortly thereafter the Applicant and Second Respondent made a joint application for an Agreed Outcome in the form annexed to this Judgment, which proposed a penalty of £500,000. The Tribunal agreed the revised Agreed Outcome and ordered that the Respondent do pay a fine in the sum of £500,000.

Costs

27. The Applicant's Statement of Costs to Issue was dated 15 September 2017 and was in the sum of £125,114.60. This included the costs of the Forensic Investigation and Capsticks fixed fee until the conclusion of the matter. There was no breakdown

available as to how the costs related to the First and Second Respondents respectively and nor was there a figure as to the costs actually incurred to date.

28. Mr Purcell told the Tribunal that Capsticks had undertaken approximately two hundred and forty hours of work in this matter and approximately sixty of those related to the Agreed Outcome.

29. The parties had agreed between them that the Second Respondent would pay the Applicant's costs in the sum of £25,000 plus VAT. Accordingly, the Tribunal ordered costs in the agreed terms. At the substantive hearing the Applicant should provide the Tribunal with the costs relating to the First Respondent only and should deduct any costs that related to the Second Respondent from its costs schedule.

Statement of Full Order

30. The Tribunal Ordered that the Respondent, LOCKE LORD (UK), do pay a fine of £500,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that it do pay the costs of and incidental to this application and enquiry agreed in the sum of £25,000.00 plus VAT.

Dated this 10th day of November 2017
On behalf of the Tribunal

A. N. Spooner
Chairman

Judgment filed
with the Law Society
on 10 NOV 2017

SOLICITORS DISCIPLINARY TRIBUNAL

MATTER NUMBER [ ]

IN THE MATTER OF THE SOLICITORS ACT 1974 (AS AMENDED)

AND IN THE MATTER OF

SOLICITORS REGULATION AUTHORITY

Applicant

and

MR JONATHAN DENTON

First Respondent

and

LOCKE LORD (UK) LLP

Second Respondent

STATEMENT OF AGREED FACTS AND OUTCOME
IN RESPECT OF THE SECOND RESPONDENT

1. By a Statement made by Daniel Purcell on behalf of the Solicitors Regulation Authority (SRA) pursuant to Rule 5 of the Solicitors (Disciplinary Proceedings) Rules 2007, dated [ ] 2017, the SRA brought proceedings before the Tribunal making allegations of misconduct against the Respondents.

2. The Second Respondent (**"the Firm"**) is prepared to make admissions to the allegations in the Rule 5 Statement, as set out in this document.

3. The allegations arise out of a Forensic Investigation which commenced in September 2015. In brief summary, it is alleged against, and admitted by, the Firm that:

   3.1. The Firm failed to prevent the First Respondent from involving himself (and holding out the Firm as being involved in) and using its client account in transactions bearing the hallmarks of dubious investment schemes giving rise to losses to investors;

3.2. The Firm failed to prevent the First Respondent using its client account to provide a banking facility;

3.3. The Firm failed to have in place effective systems for the identification and management of potential conflicts of interest;

3.4. The Firm failed adequately to supervise the work of the First Respondent, including after indicators became known to the Firm of matters necessitating such supervision.

4. The SRA is satisfied that the admissions and outcome in respect of the Firm satisfy the public interest having regard to the gravity of the matters alleged.

Admissions

5. The Firm will admit that:

5.1. on dates between March 2013 and September 2015 it failed to prevent the First Respondent from involving himself (and holding out the Firm as being involved in) and using the Firm's client account in transactions that bore the hallmarks of dubious financial arrangements or investment schemes and in doing so breached all or any of Principles 2, 4, 6 and 8 of the SRA Principles 2011 (Allegation 2.1);

5.2. on dates between September 2012 and March 2015 it failed to prevent the First Respondent from directing or requesting payments into, and transfers or withdrawals from, the Firm's client account which were not related to an underlying legal transaction or a service forming part of the Firm's normal regulated activities in breach of Rule 14.5 of the SRA Accounts Rules 2011 (Allegation 2.2);

5.3. on dates between September 2012 and March 2015, it failed to have effective systems and controls in place to enable it to identify and assess potential conflicts of interests and in doing so breached all or any of Principles 4 and 8 of the SRA Principles 2011 and Outcomes O(3.1) and O(3.2) of the SRA Code of Conduct 2011 (Allegation 2.3);

5.4. it failed properly to properly supervise the matters relating to Ikaya and Sionne which had been conducted by the First Respondent after:

5.4.1. becoming aware of concerns about a number of transactions involving the First Respondent in March 2013, May 2013 and January 2014;

5.4.2. identifying a potential conflict of interest in or about July 2014; and

5.4.3. causing the First Respondent to be placed on "gardening leave" in July 2015,

and in doing so breached all or any of Principles 6 and 8 of the SRA Principles 2011 (Allegation 2.4).

Agreed Facts

6. The First Respondent was a member of the Firm between 26 March 2012 and 1 January 2014, and thereafter, until 23 October 2015, was employed in the role of "Of Counsel". On 23 July 2015 the Firm gave the First Respondent three months' notice terminating his employment contract, terminating on 23 October 2015. For part of that period, he retained access to his email account at the Firm and matters were referred to him by the Firm.

7. In or about August 2012, the Firm began to act, through the First Respondent, on a series of transactions for clients Ikaya and Sionne. Ikaya/Sionne purported to operate, via various trading companies, an investment scheme offering very high yields. Investment funds were received into the Firm's client account from individual and corporate investors, which were placed into one of seven separate trusts, with the joint trustees of each being the First Respondent's company Ikaya, and Sionne. Each trust was governed by a written trust deed with each investor.

8. Approximately £21 million was paid by investors into the Firm's client account between September 2012 and April 2015; however, there did not appear to be any verifiable returns to investors, and those investors who did receive a "return" received only a fraction of the contracted amount, which in a number of cases had been paid out of sums received into the Firm's client account from other investors.

Ikaya and Sionne

9. Ikaya (company number 08151634) was incorporated on 20 July 2012, with the First Respondent as sole director and shareholder and his wife as company secretary.

10. Sionne (company number 08191257) was incorporated on 24 August 2012.

11. At various times payments from client account ledgers relating to Ikaya and Sionne were made to other companies related to the First Respondent, Ikaya and/or Sionne.

The Retainer

12. A client engagement letter was sent from the Firm to Ikaya and Sionne on 5 September 2012 in relation to a retainer "*to act on behalf of the trustees of the Small Trade Trust...to give you advice in respect of the Trust Deed and the trading contract in respect of the Small Trade Trust*". The Firm's Terms of Engagement were attached. The letter was addressed to the First Respondent

on behalf of Ikaya and to Simon Oakley on behalf of Sionne and was signed by the First Respondent on behalf of the Firm. The letter set out the First Respondent's hourly rate of £450 and confirmed that the First Respondent would be the Client Partner. The letter was then signed (but not dated) by the First Respondent on behalf of Ikaya and Simon Oakley on behalf of Sionne.

13. During the course of the retainer, from September 2012 to June 2015, the First Respondent billed a total of 1,424.9 hours, delivering invoices from the Firm to Ikaya totalling £532,044.79, $657,194.37 and €286,902.52.

The Investment Schemes

14. The First Respondent and the Firm acted on behalf of Ikaya in relation to seven investment trusts during the retainer, at least one of which was an abortive scheme.

15. The First Respondent promoted the investment schemes to potential investors in his capacity as a director of Ikaya, and lent comfort to at least one potential investor by meeting him at the Firm's offices, when the investor was told that the investment purportedly relied on the investment of monies to provide security against which a line of credit could be obtained to acquire bank-issued debt instruments, the re-sale of which would generate substantial profits. The First Respondent also became involved in purported "bullet trades" when returns of 10 times the capital investment over a six week period were promised.

16. The First Respondent also used his status as a qualified lawyer to lend credibility to the investment schemes and promotional materials provided to investors explained the need for a "NCNDA" (Non-Circumvention, Non-Disclosure Agreement) and proof of "*liquid and investable funds*" before potential investors were invited to meet with "*the UK lawyer who is co-ordinating the programme*".

17. One investor was informed by the First Respondent that "*the investment capital would be safe, the only risk being if the bank went bust*" and that he could achieve monthly returns of 6% of the capital investment per month. Further, the introducer asked the First Respondent to confirm that the money deposited into the trust would only be at risk of loss if the bank into which it was deposited failed and that at the end of the defined trading period, the capital would be returned in full to the investor. The First Respondent responded on 23 October 2012, from his Firm email account, confirming "*that the risk is insolvency risk on the bank where the funds are deposited and secondly at the end of the defined trading period the capital is returned*".

18. Individual investors were required to enter into trust deeds appointing, inter alia, Ikaya (of which the First Respondent was sole director) as a trustee.

19. In September 2012, letters were sent from the Firm to investors introducing the Firm as "*the legal advisers to the Trustees in respect of*" an investment scheme operated by the First Respondent. The letters stated that "*When sufficient funds are held by this firm the Trustees will meet the counter-party bank through whom the Trust will be generating the returns for the beneficiaries.*" The letters went on to explain that the trustees would then attend a further meeting with the bank "*to open a specific account where the funds which are currently held in the Locke Lord LLP client account will be transferred to enable to the* [sic] *trustees to enter into a trading contract on behalf of the Trust. The account will be in the name of the Trustees*".

20. The files relating to Trust No 1 contained a letter dated 20 September 2012 signed by the First Respondent on behalf of Ikaya and by Simon Oakley on behalf of Sionne. The letter, which does not have an addressee, states as follows:

"*We hereby declare that the cash funds outlined in this submission are not of our beneficial ownership. However, such cash funds are under our direct and physical control as authorised by the beneficial owners, and held in the client account...of our solicitors, Locke Lord (UK) LLP within the terms expressed in the covering documentation and appendices.*

We hereby declare with full legal responsibility that we Ikaya Limited and Sionne Limited together with our solicitors, Locke Lord (UK) LLP have undertaken our own full due diligence and compliance in respect of the funds outlined herein, and as such confirm said funds are good, clean clear, unencumbered and of non-criminal origin. Further we declare that the beneficiaries we are representing and whose funds we are managing have been internationally cleared for us to administer their funds..."

21. The papers held by the Firm also include a second letter dated 20 September 2012 addressed to "*Investment Manager*" (no address) signed by the First Respondent and Simon Oakley on behalf of Ikaya and Sionne respectively, declaring their "*interest in the opportunity to be considered to participate in a private placement program*". The letter attaches a separate letter from the Firm confirming the funds available "*at a minimum of £1,090,000*" and includes a confirmation that such funds are unencumbered and derive from non-criminal origins, and also that "*we are sophisticated in this type of investment and this opportunity was not solicited in any manner*".

22. The ledgers relating to Trusts No 1-3 show that a total of £7,597,500 was received from individual/corporate investors into Trusts No 1-3. Further payments of £2,600,000 and £2,240,000 were received from two companies called BHIEB Texas Limited and CWLJ Global Limited, although it is unclear

whether these sums were new funds for investment. The payments were made between 18 September 2012 and 18 June 2013.

23. The matter ledgers relating to Trusts No 1-3 show that (excluding payments to investors), payments out were made between 18 October 2012 and 19 June 2013 in the total sum of £18,755,070. This total sum included a payment of £7,000,000 to "Dynasty", a US-based investment vehicle, on 15 February 2013 and a second payment of £7,000,000 on 10 April 2013, after the sum of £7,000,000 had been paid back into the Firm's client account by the Royal Bank of Canada ("**RBC**"), Dynasty's bankers. It also included £298,815 to Berkeley House Investment Ltd, of which the First Respondent was a shareholder, and £92,682.66 to the Firm.

Identification of concerns regarding the investment schemes

24. The Firm was contacted by the FBI in relation to a request for the release of funds in connection with a payment to Dynasty on or around 13 March 2013, and emails passed between senior members of the Firm on that day. A partner in the Firm informed other partners that the FBI was concerned about the risk that $2,000,000 of investors' money was at risk of loss because the FBI was concerned that an individual involved in the transactions with *"some history of prior investment fraud or irregularities"* may be trying to divert the $2,000,000 for his personal use. A partner in the Firm asked the First Respondent to confirm whether the transaction was one "*where our client anticipated Linder being paid $2M for his involvement?...What is Dynasty doing with the $11M...?*". In a separate email of 13 March 2013, a partner in the Firm identified that "[I]*f Linder has the authority or ability to transfer funds to another account, there is a risk of loss*". The Firm's Chief Financial Officer (CFO) and another partner requested that the First Respondent sought clear instructions from the client as to whether to proceed,

25. The First Respondent reverted to the Firm's CFO on 14 March 2013 stating that "*the client*" (Ikaya) was liaising with Dynasty and confirming that it was "*clear that the client does not expect the funds to be depleted by any withdrawls* [sic] *by Dynasty*". The Firm did not identify that (as it had previously been informed) the First Respondent was the sole director of Ikaya at this time.

26. A conference call took place between the First Respondent and the CFO on 18 March 2013, at or shortly following which the First Respondent agreed to abort the transaction and return funds to investors.

27. The senior officers of the Firm believed but did not take steps to verify or ensure that the First Respondent had returned the relevant funds to investors but, notwithstanding his agreement on around 18 March 2013 to abort the transaction, the First Respondent continued to progress the transaction.

28. On 12 April 2013, an update was sent to the investors in Trusts 1, 2 and 3 signed by the First Respondent on behalf of Ikaya and Simon Oakley on behalf of Slonne. Although it was apparent from the previous correspondence with Dynasty that investment monies were being held at the RBC/Bank of America, this update stated that the invested capital was secure in a trustee signatory account in London. On around 10 April 2013 the sum of £7 million had been transferred from the Firm's client account to an account at Barclays in St. John's Wood, London. The account name was stated to be Dynasty ITPF.

29. The First Respondent on behalf of Ikaya and Simon Oakley on behalf of Slonne sent a further update to investors of Trusts No 1-3 on 10 May 2013, explaining that Dynasty was in a position to remit profits but that a "*number of issues*" in the USA were causing major delays with banks, and a UK "*paymaster*" account would be arranged rather than routing funds via the USA. The update went on to confirm that the trustees had been able to "*verify the availability of these funds*", which would be remitted to the Firm via the UK paymaster, and that the trustees expected to be able to make payments "*by the end of next week*".

30. On 23 May 2013, a partner in the Firm was contacted by DS Forster of the Metropolitan Police Service stating that he would be most grateful "*if you were able to establish the veracity of the £7 million remitted from your Dallas office into an account in the name of the Firm's client account to "Dynasty ITPF (Interest Trust Private Fund)" on 8 April 2013.*" The issue was referred to the First Respondent who reported back that he had spoken to DS Forster at the Metropolitan Police and "*clarified the position. He was looking at the wrong Dynasty. Funds are secure at Barclays St Johns Wood*".

31. On 12 June 2013, the First Respondent emailed a letter before action addressed to entities including Dynasty, requesting all funds to be paid to the Firm within 7 days, otherwise the Firm would be instructed to commence proceedings, for outstanding funds due and damages, estimated to be in region of £13,000,000.

Payments of purported "profits" to investors

32. Payments purporting to represent profits achieved on investments were made to investors in Trusts No 1-3 on 19 June 2013. However, the ledger shows that all payments made on 19 June 2013 were taken from the Trust No 3 funds, which had been received, principally from the payment made by CWLJ Global Limited referred to in paragraph [22] above. Payments were made on 19 June 2013 in the total sum of £544,380, to thirteen recipients.

33. Payments out were therefore made at the request or direction of the First Respondent and given effect by the Firm, after:

33.1. The Firm had become aware, on 13 March 2013, of a concern on the part of the FBI with the proposed payment of trust monies to a personal account of James Linder (Dynasty) (as set out in paragraph [24] above).

33.2. The First Respondent had informed the Firm, on 18 March 2013, of an intention to abort the transaction with Dynasty and return funds to investors (as set out in paragraph [26] above).

33.3. The Firm had become aware of a concern on the part of the Metropolitan Police Service to establish the veracity of the payment to Dynasty (as set out in paragraph [30] above).

Trust No 5

34. Funds were received from a corporate investor in Trust No 5 (also known as Small Trust 5). The purported returns for the USD investment were unusually high: 10 times the capital invested in respect of an intended $500,000 investment (i.e. $5,000,000) upon maturity at 2 December 2013 (a very short trade referred to as a "*bullet account*") with 42.5% of profits being paid to a corporate investor, rolling into a monthly income at 4%. Subsequent correspondence confirmed that 47.5% of the profits from that investor's "*bullet*" trade would be paid to the trustees (i.e. Ikaya and Sionne). The investments of two individual investors ($250,000 each) were also to be in the same "*bullet account*" terms with a return of 10 times the invested capital, with the investor receiving 85% profits and the opportunity to roll over into a monthly account with a 6% return. The investors have stated that "*Mr Denton told us that the investment and outcome was assured*". An email from the First Respondent to an investor dated 14 October 2013 confirmed that the maturity date of the trust was 2 December 2013 and that the pay-out "*usually takes place the next day*".

35. On 22 October 2013, the sum of €550,100 was paid into the Trust No 5 Euro ledger on behalf of the same corporate investor and a completed trust deed schedule was returned referring to the investment of $500,000 and €550,000. An email from the First Respondent to individual investors in respect of their investments on 3 October 2013 stated that there would be a deduction of 5% for the introducer, and 10% for trustee costs.

36. For all investors except one, the Firm held a deed of trust dated between September and October 2013, and a completed schedule confirming the terms of the trade.

37. On 30 November 2013, the First Respondent emailed one of the corporate investors to explain that in "*anticipation of the return to come out next week,* [the Firm] *has rendered its fee invoice to the trustees*". The invoice, addressed to the trustees, was for £116,512.07 and the First Respondent requested a contribution of £20,506.03 from the investor. The First Respondent stated that he would also be asking the other "*settlor/beneficiary*" for the same amount,

with the trustees paying the balance of £75,500. The First Respondent explained that these were set-up costs only and any other fees from the Firm will be paid by the trustees.

38. The client ledger relating to the USD account for Trust No 5 shows the receipts into the Firm's client account of investment monies relating to the Trust No 5 USD Investments in the total sum of $10,173,428.90 from seven investors between 25 September 2013 and 12 March 2015.

39. Substantial payments were received into the Firm's client account at the request or direction of the First Respondent and given effect by the Firm after:

    39.1. The Firm had become aware, on 13 March 2013, of a concern on the part of the FBI with the proposed payment of trust monies to a personal account of James Linder (Dynasty) (as set out in paragraph [24] above).

    39.2. The First Respondent had informed the Firm, on 18 March 2013, of an intention to abort the transaction with Dynasty and return funds to investors (as set out in paragraph [26] above).

    39.3. The Firm had become aware of a concern on the part of the Metropolitan Police Service to establish the veracity of the payment to Dynasty (as set out in paragraph [30] above).

    39.4. A partner in the Firm's California office had reported on 28 January 2014 that the First Respondent had approached him for assistance in relation to a different and unrelated project finance transaction and that he was concerned that the Firm was *"unwittingly stepping into a potential fraudulent scheme"* bearing many of the hallmarks of *"prime bank securities"* fraud, although ultimately no file was opened and the matter did not proceed in respect of that particular scheme.

40. The matter ledger relating to Trusts No 1 and 5 records that (excluding payments to investors) four sets of payments out were made using Trust No 5 monies, in the total sum of $6,890,413.70, including a payment of $1,000,000 to Asociation Karma Guen and payment of the Firm's invoices in the sum of $599,088.71.

41. Paul G Vesnaver PLLC, recipient of a substantial portion of the investment monies, is a "Professional Limited Liability Company", registered on 14 March 2007 in Garden City, New York. Paul Vesnaver was referred to in a witness statement of the First Respondent dated 13 January 2015 as *"the escrow attorney"*. Mr Vesnaver was an American personal injury lawyer based in New York.

42. The ledgers show that some payments were made to investors in Trust No 5, although (with the exception of the return of capital to individual investors) it is not clear how these have been calculated. Seven payments were made,

between 11 April 2014 and 3 December 2014, to five recipients (or their solicitors) in the total sum of $1,565,032.24.

43. Payments out were therefore made at the direction or request of the First Respondent and given effect by the Firm after:

43.1. The Firm had become aware, on 13 March 2013, of a concern on the part of the FBI with the proposed payment of trust monies to a personal account of James Linder (Dynasty) (as set out in paragraph [24] above).

43.2. The First Respondent had informed the Firm, on 18 March 2013, of an intention to abort the transaction with Dynasty and return funds to investors (as set out in paragraph [26] above).

43.3. The Firm had become aware of a concern on the part of the Metropolitan Police Service to establish the veracity of the payment to Dynasty (as set out in paragraph [30] above).

43.4. A partner in the Firm's California office had reported on 28 January 2014 that the First Respondent had approached him for assistance in relation to a different and unrelated project finance transaction and that he was concerned that the Firm was "*unwittingly stepping into a potential fraudulent scheme*" bearing many of the hallmarks of "*prime bank securities*" fraud, although ultimately no file was opened in respect of that particular scheme.

Investor complaints and attempts to obtain repayments of monies (Trusts No 1-3 and 5)

44. Concerns were raised by investors in Trusts No 1-3 from December 2013.

45. The Trust No 5 bullet trade purportedly "matured" on 2 December 2013. Emails between the First Respondent and other members of the Firm on 19 December 2013 referred to an expected incoming payment of $8.4million in respect of the Trust No 5 profits. A query was raised by the Firm's CFO as to why the Firm's client account was being used to distribute trading dividends, to which the First Respondent replied that the origins of the funds were known. The Firm agreed to the receipt of the monies, but there is no evidence on the ledger of the monies being received. In January 2014 in response to a request for the transfer of funds the First Respondent explained that these had been held up due to a "*compliance issue*" with a Liechtenstein bank.

46. On 11 April 2014, the First Respondent wrote on the Firm's notepaper to Dynasty, a US entity purportedly involved in facilitating the investments, on behalf of a corporate investor making a "*formal demand*" in relation to the Trust No 2-3 monies of £7,000,000 which had been transferred to Dynasty on 8 April 2013 for investment, and demanded the return of the monies to the Firm following the expiry of the investment period. This was followed by further

letters to Dynasty dated 14, 15, and 17 April 2014, in which letters the First Respondent stated that further action would be taken if the monies were not returned.

47. On 28 May 2014 a meeting took place between an individual investor and a partner and the Firm's Compliance Officer for Legal Practice ("COLP"), at which the investor expressed concern about the return of his investments in Trust No 5. Subsequently, on 2 June 2014, the Firm raised concerns with the First Respondent and Mr Oakley, who agreed to return the investment capital. The Firm's COLP expressed concern to the Firm's General Counsel in an email of 10 July 2014 that "*there has been a certain mixing of…*[the First Respondent's]*…roles, as director of Ikaya and lawyer with Locke Lord…*".

48. The capital investments of two individual investors were repaid on 19 June 2014. In a witness statement prepared by the First Respondent in relation to the proceedings brought by those investors, he confirmed that the repayment of capital had been made by Ikaya/Sionne "*as a gesture of goodwill*" from returns on an ongoing monthly trade. However, it appears from the Trust No 5 ledger that the incoming $500,000 used to make the payment came from another investor.

49. Although two individual investors' capital had been repaid, proceedings were subsequently issued on their behalf in December 2014 against the Ikaya and Sionne seeking disclosure of information and documents concerning the location of the Trust No 5 profits.

50. On 22 December 2014 an individual investor emailed the First Respondent questioning the legality of the investment scheme.

51. In April 2015 the Firm's COLP was contacted by North Yorkshire Police about a complaint received from a Trust No 1/2 investor, whereupon the Firm's COLP spoke to the First Respondent.

52. Further emails between the First Respondent and the investors in Trusts No 1-3, and between the investors themselves, dated May 2015 showed growing concerns about the delays in returning money. Notwithstanding that investment monies had already been returned to some investors, in an email to one of those investors, the First Respondent stated that delay was due to the trustees having to set up a bank account for the monies to be transferred into as this could not go through a law firm, due to Law Society guidance preventing law firms acting as bankers.

53. An Irish law firm eventually took over conduct of the Ikaya matters from the Firm in early to mid-2015. Between April and July 2015 the Firm transferred the sums of £2,789,220.66, $237,413.80, EUR 5,574.58, $828,088.19 and £133,961.05 to the Irish firm with the authority and consent of the corporate investors concerned.

54. On 23 July 2015 the First Respondent was given three months' notice terminating his employment contract.

55. During his notice period, the First Respondent continued to (and was allowed to) use his Firm email account to correspond with investors in the Ikaya schemes. Further, the Firm's COLP forwarded enquiries from investors in the Ikaya schemes to the First Respondent during the period of "garden leave". A series of emails passed between the First Respondent and investors from 31 July 2015 to 7 August 2015, copied to the Firm's COLP, setting out the investors' concerns. In an email chain dated between 5 and 7 August 2015, the First Respondent confirmed that the funds had reportedly been received by the "paymaster" and deeds of release had been prepared and would be sent to the investors for review.

56. The papers provided to the SRA contain updates to investors in relation to Trusts 1, 2 and 3 dated 18 September and 5 October 2015 (the first copied to the COLP of the Firm) and subsequent email correspondence between the First Respondent and investors in September and October 2015, much of it, again, copied to the COLP of the Firm. The First Respondent continued to assert throughout that capital would be returned shortly.

57. On 6 October 2015, the Compliance Officer for Global Currency Exchange Network/Global Custodial Services Limited sent an email to the COLP of the Firm requesting details of the First Respondent's garden leave and asking if the trusteeship in respect of Trust No 5 had been passed to another member of Locke Lord staff. The COLP of the Firm replied the same day, copying it to the First Respondent's personal email address, explaining that the trusteeship had not been transferred to any lawyer at Locke Lord and providing the First Respondent's telephone numbers and email contact.

58. In addition, the General Counsel of the Firm was contacted by a corporate investor by email on 5 October 2015. The General Counsel responded on 7 October 2015, copied to the First Respondent's personal email address, explaining that the First Respondent had been on garden leave since July 2015, with his contract terminating on 23 October 2015 and that he understood the Firm " *does not hold any funds belonging to [investor] and, to the best of my knowledge, Locke Lord is not a trustee or custodian of any [investor] account...Regardless of whether [investor] is a current client of the Firm, we do not choose to provide legal services to [investor] in the future*". The email confirmed that the Firm had received funds from the investor "*but that was in [investor]'s capacity as an investor in another client, rather than as a client in its own right*" and it further confirmed that all funds had been transferred to that client's new legal advisors.

59. On 10 October 2015, the First Respondent was arrested at Birmingham airport.

60. On 15 October 2015, a telephone meeting took place between the COLP and the General Counsel of the Firm and several investors. The COLP confirmed that she had asked the First Respondent to attend but he had not responded to her calls, emails or text messages. The purpose of the meeting was for the investors to try and find out where their money was being held. However, neither the COLP nor General Counsel knew the answer to this. The COLP confirmed that Ikaya and Sionne were no longer being represented by the Firm.

61. The SRA received a number of complaints from or on behalf of investors in Trust No 3 in October 2015.

Admissions as to agreed facts

Allegation 2.1: The Firm failed to prevent the First Respondent from involving himself (and holding out the Firm as being involved in) and using its client account in transactions that bore the hallmarks of dubious financial arrangements or investment schemes in breach of Principles 2, 4, 6 and 8 of the SRA Principles 2011

62. The Firm failed to prevent the First Respondent from conducting the work for Ikaya in relation to investment schemes which bore the hallmarks of high yield investment fraud as set out at paragraphs [14] to [22] above. The Firm was aware of the following concerns about the schemes on the following occasions:

    62.1. March 2013, when the General Counsel and CFO of the Firm were alerted to the FBI's concerns as to the proposed payment of trust monies to a personal account of James Linder of Dynasty (as set out in paragraph [24] above);

    62.2. May 2013, when the Metropolitan Police Service made enquiries as to a transaction being undertaken by the First Respondent (as set out in paragraph [30] above);

    62.3. January 2014, when a partner in the Firm's California office was approached by the First Respondent in respect of another investment scheme about which the partner expressed concern that the Firm was "*unwittingly stepping into a potential fraudulent scheme*" bearing many of the hallmarks of "*prime bank securities*" fraud (although no file was opened and the matter did not proceed in respect of that scheme);

    62.4. February 2014, when queries were raised including with the Firm's COLP about substantial receipts of funds;

    62.5. May and June 2014, when complaints were received from and on behalf of two investors (as set out in paragraphs [47] to [48] above);

    62.6. July 2014, when the Firm's COLP identified a potential conflict of interest (as set out in paragraph [47] above);

62.7. April 2015, when North Yorkshire Police Service made enquiries as to a transaction being undertaken by the First Respondent (as set out in paragraph [51] above).

63. Notwithstanding this, the Firm failed to make adequate enquiries as to the nature and operation of the schemes when:

    63.1. a proper investigation would have led to establishing that the transactions were, at best, dubious;

    63.2. a straightforward review of the ledgers recording the transactions would show that investors' monies were being used to make payments out to other investors;

    63.3. the First Respondent continued to act for Ikaya after agreeing with the Firm's CFO in March 2013 that he would not proceed with the transaction concerned with Dynasty.

64. The Firm failed to stop the First Respondent from continuing to act for Ikaya until July 2015, and even then referred queries to him while he was on garden leave until October 2015 (as set out in paragraphs [55] to [56] above). The use of the Firm's letter-headed paper, email accounts, and offices for meeting, along with the use of its name in promotional material, gave the impression to investors with whom the First Respondent dealt directly that "*this was a Locke Lord backed investment*" and might have been seen by those investors as lending credibility to the schemes themselves. The conduct of the Firm in failing to prevent the First Respondent from continuing to act after it became aware of the matters being the subject of investigations by the FBI and British police forces is an aggravating feature.

65. The Firm benefitted from its involvement in the dubious scheme in the form of fees paid to the Firm of £532,044.79, $657,194.37, and €286,902.52 during the course of the retainer, some of which was billed after the Firm became aware of concerns relating to the work for Ikaya.

<u>Integrity</u>

66. The Firm and its senior officers did not act dishonestly or with conscious impropriety or turn a blind eye to the First Respondent's conduct. Nevertheless, the Firm's conduct amounted to a failure to act with integrity, and so a breach of Principle 2 of the SRA Principles 2011 in that important opportunities were missed by the Firm and its senior officers to investigate the First Respondent's conduct and to subject it to scrutiny over a sustained period of time with serious consequences:

    66.1. The failure adequately to investigate the circumstances of the high value transactions being carried out by a partner in the Firm which bore several hallmarks of fraud, for example, the sending of the emails by the First

Respondent from a Firm email address to an investor asserting that there was low financial risk arising from transactions purporting to offer extremely high returns (as set out in paragraph [17] (above));

66.2. The failure properly to investigate the circumstances of the high value transactions being undertaken, after the receipt by senior officers of the Firm of enquiries from law enforcement agencies, and the resultant identification by senior officers of the Firm of a "risk of loss" to client monies (as set out in paragraphs [24] to [30] (above));

66.3. The failure by the Firm to prevent the continued receipt into, and payment from, the Firm's client account by the First Respondent of large sums, after the First Respondent's purported agreement in March 2013 not to continue with the transaction described in paragraphs [24] to [30] (above);

66.4. The failure by the Firm to identify that investors' funds held on the Firm's client account by the Firm on behalf of Ikaya and Sionne were used by the First Respondent to make payments of purported "returns" to other investors;

66.5. The failure by the Firm to take any or adequate steps to examine whether a conflict of interest arose, having identified concerns as to the risk of such a conflict in July 2014 (as set out in paragraph [47] above).

Principles 4, 6 and 8

67. The best interests of the Firm's clients required the Firm to ensure that where indicators of fraud were identified as being present, or concerns raised by law enforcement agencies or others within or outside of the firm as to the probity of transactions, steps were taken to examine and ensure the probity of transactions, in order to prevent the risk of losses to individual clients (where it was acting for those clients). The Firm was acting for a small number of investors (although not for any corporate investor in Trust No 5) and admits that it was its failure to examine and ensure the probity of transactions relating to those clients amounted to a breach of Principle 4 requiring it to act in the best interests of clients.

68. The Firm further acted in a manner which did not maintain public trust in the firm or in the provision of legal services. Investors who had entrusted monies to Ikaya and Sionne (for whom the Firm was acting) suffered losses, and were known by the Firm to have claimed to have suffered such losses. The public, and individuals considering entrusting funds to solicitors, must be confident that solicitors will be trusted "to the ends of the earth" and the failure to conduct basic enquiries into the probity of transactions, or to act on serious concerns or indicators of the risk of fraud, amounts to a serious failure to maintain such confidence. The Firm thereby breached Principle 6.

69. The failures identified and admitted amounted to a failure by the Firm to run its business in accordance with proper governance and sound financial and risk management principles and so breached Principle 8 of the SRA Principles 2011.

Allegation 2.2: The Firm failed to prevent the First Respondent from directing or requesting payments into, and transfers or withdrawals from, the Firm's client account which were not related to an underlying legal transaction or a service forming part of the Firm's normal regulated activities in breach of Rule 14.5 of the SRA Accounts Rules 2011

70. In respect of allegation 2.2, most of the payments into and transfers or withdrawals from the Firm's client account were in breach of Rule 14.5 of the SRA Accounts Rules 2011. Very substantial funds passed through the Firm's client account in respect of the "investments".

71. The Firm admits that senior officers had identified concerns about the First Respondent's use of the Firm's client account. An email from the Firm's Chief Financial Officer of 19 December 2013 concerning receipts of payments facilitated by the First Respondent acknowledged that "...*The description...indicates this is related to dividends from trading activities and a brokerage account should be able to appropriately disburse such funds back to the investors or through use of an escrow account...*". An email from a senior consultant (copied to the Firm's COLP) to the First Respondent on 11 February 2014 sought an explanation as to "*why these monies did not go directly from the investors bankers to the Trust or Funds bankers. In circumstances where there is no underlying transaction in which the firm is involved.*"

72. Questions were asked by the Firm about each of these matters:

    72.1. In relation to the email from the Firm's CFO dated 19 December 2013, in connection with an expected receipt of funds into its client account, the CFO asked the First Respondent to explain this transaction since it appeared to relate to the previous Dynasty transaction. The First Respondent explained that it did not and produced a number of documents including a diagram describing the role of the Firm and a pro forma completion statement. He also explained that comprehensive KYC checks had been carried out on the settlors funds, that the origin of the funds expected was known and that going forward, commencing 1 January 2014, he would advise that funds should be remitted to a third party manager. In fact, the money was never received into client account.

    72.2. When asked by the senior consultant about the underlying transaction relating to the payment in February 2014 the First Respondent described the legal work in his email dated 13 February 2014. He also produced a

diagram entitled "Investment Trust Structure" which described the Firm's role as providing legal advice. The payment in question was returned.

73. The Firm admits that if it had scrutinised the conduct of the First Respondent further (as set out in paragraph 66 above), it ought to have been aware that the First Respondent was using the client account in breach of Rule 14.5 and that it acted in breach of Rule 14.5 of the SRA Accounts Rules 2011.

Allegation 2.3: The Firm failed to have effective systems and controls in place to enable it to identify and assess potential conflicts of interests in breach of all or any of Principles 4 and 8 of the SRA Principles 2011 and Outcomes O(3.1) and O(3.2) of the SRA Code of Conduct 2011.

74. The Firm failed to prevent the First Respondent acting in a position of conflict. The First Respondent's association with Ikaya was known to the Firm. However, the Firm failed to identify the conflict between his personal interests as a director and shareholder of Ikaya and the interests of the Firm. It also failed to identify the conflict between the interests of Ikaya and the interests of investors whose money the Firm handled through its client account. The investors were for the most part beneficiaries of the trusts although the Firm also acted for a small number of them at various times (not including any corporate investor in Trust No 5). The Firm's systems and policies to manage the risk of conflicts of interest were therefore either inadequate or ineffectively applied.

75. The following features are aggravating factors in respect of this allegation:

    75.1. it was readily discoverable by the Firm that the First Respondent was a director of one of the client companies and so that a potential conflict arose;

    75.2. the fact that the work for these clients represented a very substantial part of the First Respondent's entire practice and fee income should have caused the Firm to undertake further scrutiny of the nature and source of the instructions, given the First Respondent's recent arrival at the Firm at the time of inception of the instructions;

    75.3. the COLP of the Firm was aware of a *"mixing"* of the First Respondent's roles, and so of at least an appearance or risk of conflict, in July 2014 (as set out in paragraph [47] above) but took no substantive action to investigate or prevent a conflict continuing.

76. The Firm thus failed to act in the best interests of the clients in respect of whose matters conflicts of interest arose, in breach of Principle 4 of the SRA Principles 2011, and breached Outcomes O(3.1) and O(3.2) of the SRA Code of Conduct 2011.

77. The Firm further failed to ensure that appropriate systems were in place and/or that those systems were correctly applied to prevent the above, in breach of Principle 8 of the SRA Principles 2011.

Allegation 2.4: The Firm failed properly to supervise the matters relating to Ikaya and Sionne which had been conducted by the First Respondent after becoming aware of concerns about a number of transactions involving the First Respondent, identifying a potential conflict of interest, and causing the First Respondent to be placed on "gardening leave" in July 2015, and in doing so, breached all or any of Principles 6 and 8 of the SRA Principles 2011

78. The Firm failed properly to monitor the First Respondent's conduct after becoming aware of concerns regarding a number of transactions. The Firm obtained an assurance from the First Respondent that he would abort the transaction with Dynasty after an FBI enquiry in March 2013 but failed to take steps to ensure that he complied with this assurance (as set out in paragraphs [26] and [27] above). It also failed to take steps to respond to hallmarks of fraud in transactions involving the First Respondent, despite such hallmarks being identified by a partner in the Firm in relation to another scheme in California in which the First Respondent was proposing to become involved in January 2014.

79. The Firm further failed properly to examine whether a conflict arose, at the outset of the retainer for Ikaya, and subsequently when the Firm's COLP identified a "*mixing*" of the First Respondent's roles (as set out in paragraph [47] above) but failed to take prompt or effective action.

80. The Firm failed to supervise the First Respondent and to prevent the First Respondent from continuing with his work on the investment schemes whilst on garden leave. The First Respondent continued to communicate with investors and to conduct these matters using his Locke Lord email address during his period of garden leave (i.e. July to October 2015) (as set out in paragraphs [55] to [56] above). The Firm was copied into some of these emails and the First Respondent was able to access his Locke Lord email account until September 2015.

81. In doing so, the Firm failed to act in a manner which would maintain public confidence in the Firm or the profession and amounted to a failure to have in place systems and controls reflecting sound financial and risk management measures.

Mitigation

82. The following points are advanced by way of mitigation on behalf of the Firm. Their inclusion in this document does not amount to adoption of such points by the SRA but the SRA accepts that account can properly be taken of the

following points in assessing whether the proposed outcomes represent a proportionate resolution of the matter.

83. The Firm is the London office of Locke Lord LLP, a full service international law firm with a very substantial presence in the United States of America dating back to the 1880s. It requires amongst other things that its personnel act at all times with the highest level of ethics and professionalism and abide by the laws of professional responsibility. The Firm and Locke Lord LLP deeply regret this episode, which began not long after the Firm opened in London.

84. At all times, the Firm, its senior officers and its managers acted in good faith. In particular, at no stage did the Firm shy away from dealing with the matters identified in paragraphs [62] and [71]. On each occasion, questions were asked of the First Respondent by a number of representatives of the Firm. On each occasion, he was able to provide answers or explanations in response to what appeared to those dealing with them at the time to be isolated issues as opposed to anything more sinister. They were also matters which did not appear, at least not at the time they occurred and on an individual basis, to raise any issues about the First Respondent's honesty or integrity. Accordingly, no one questioned the honesty or integrity of the First Respondent or considered that there was or might be a need to undertake a separate investigation into his activities. In particular:

    84.1. The First Respondent had excellent credentials when he joined the Firm as a partner in March 2012 and had been recommended for partnership by two senior individuals at the Firm, who had been his former partners at Salans. For this reason, he was accorded a high level of trust and given what was thought to be an appropriate degree of autonomy and responsibility.

    84.2. When the Dynasty payment was referred to the General Counsel, the CFO and the Deputy General Counsel in March 2013, the First Respondent undertook to the CFO to repay the sums to investors and the Deputy General Counsel believed that he had done so (as set out in paragraphs [24] to [26] above). Moreover, the concern raised by the FBI and RBC was not about the investment scheme or the First Respondent himself. It concerned whether a broker to whom the money had been transferred was entitled to deduct the sum of US $2 million. This is what gave rise to the risk of loss referred to in paragraph [66.2] above.

    84.3. With respect to the May 2013 contact from the Metropolitan Police (referred to in paragraph [30] above), the COLP was copied into the correspondence with the Metropolitan Police but this issue was quickly

resolved and the Metropolitan Police appeared to have been satisfied with the First Respondent's answers.

84.4. The Firm did challenge the First Respondent's use of its client account. In relation to the email from the Firm's CFO dated 19 December 2013 (referred to in paragraphs [71] and [72.1] above), in connection with an expected receipt of funds into its client account, the CFO asked the First Respondent to explain this transaction since it appeared to relate to the previous Dynasty transaction. The First Respondent explained that it did not and produced a number of documents including a diagram describing the role of the Firm and a pro forma completion statement. He also explained that comprehensive KYC checks had been carried out on the settlors funds, that the origin of the funds expected was known and that going forward, commencing 1 January 2014, he would advise that funds should be remitted to a third party manager. In fact, the money was never received into the Firm's client account.

84.5. Similarly, in relation to the receipt of funds into the Firm's client account in February 2014, the payment was referred to the COLP and a senior consultant at the Firm. The payment was subjected to some scrutiny by both of them, who were concerned that there appeared to be no pending underlying transaction associated with the funds, as required by applicable standards (as set out in paragraphs [71] and 72.2] above). The COLP therefore instructed the First Respondent to pay the money back to the sender and he agreed to and did do so.

85. In making these early admissions in these proceedings, the Firm accepts that it acted in breach of the SRA Code of Conduct and the SRA Accounts Rules in the respects set out above. However:

85.1. The Firm never authorised or permitted the First Respondent to operate an investment scheme, far less a fraudulent scheme or to use its client account for this purpose.

85.2. The Firm and its managers did not suspect that the First Respondent was engaged in wrong-doing or involved in investment fraud until after it was contacted by the SRA and the Police in late 2015.

85.3. The Firm's auditors did not report concerns or suggest that the Firm might be acting in breach of Rule 14.5 of the SRA Accounts Rules 2011.

86. Since being contacted by the Applicant, the Firm and Locke Lord LLP have cooperated with the Applicant in its investigation, at all stages. At an early stage, the Firm provided a full explanation of and accepted responsibility for its conduct in response to allegations put to it by the Applicant. It also informed the Applicant of the remediation steps which had been taken since the commencement of the investigation. It has kept the Applicant updated as to

complaints and claims arising from the matters described above, the most recent update being provided in July 2017. In particular:

86.1. By letter dated 2 December 2016 the Firm's solicitors wrote to the Applicant's solicitors bringing them up to date in relation to settlements reached and claims made against the Firm.

86.2. By letter dated 3 July 2017 the Firm's solicitors wrote to the Applicant's solicitors bringing them up to date in relation to further settlements reached, the progress of existing claims and a number of further claims.

86.3. By the letter dated 13 September 2017, the Firm's solicitors wrote to the Applicant's solicitors with another update in relation to two further settlements reached, the progress of existing claims and a number of further claims.

87. The Firm has made a number of changes and improvements to its accounting procedures and systems and controls to ensure that every transfer of funds from the Firm's client account must be approved both in London office and in the USA and that new levels of oversight have been added:

87.1. With effect from 13 March 2017 a senior member of Locke Lord LLP was appointed as Regulatory and Compliance Counsel ("RCC"). Part of his function was (and is) to authorise all payments in or out of client accounts irrespective of amount in accordance with the provisions of a revised Client Trust Account Policy (the "**Trust Policy**") (which took effect on 20 March 2017). The Manager of Finance of the Firm is also required to approve all transactions before submission to the RCC. The RCC's has authority up to £250,000.

87.2. The revised Trust Policy also requires the General Counsel and the Compliance Office for Finance and Administration ("**COFA**") (in the United Kingdom) or the Chief Operating Officer ("**COO**") (in the US and Hong Kong) to review and authorise all payments in or out of client accounts in excess of US$250,000 or its sterling equivalent. In relation to the Firm, there is the additional requirement that the COLP, or if the COLP is unavailable, the Managing Partner, approve all transactions before submission to the COO and the General Counsel. The COO and COFA roles are currently carried out by the same person.

87.3. The RCC is also required to carry out enhanced due diligence on the sources of funds and payees before funds are received into a client account or paid out of a client account in accordance with the revised Trust Policy.

87.4. Once these procedures have been carried out any payment must be approved by a partner in and reviewed a by a second partner in the Firm

(in accordance with the approvals process in place before the introduction of the revised Trust Policy).

87.5. A new Trust department has been established in the US under the Director of Partnership Accounting and Tax to verify client ledger and bank reconciliations, to monitor the breach logs and to verify and check compliance with the SRA Accounts Rules 2011.

87.6. Breach logs are monitored daily and when appropriate updated by a combined UK and US team to identify, record and correct any breaches and also to minimize the risk of recurring systemic breaches. The RCC also conducts not less than monthly conference calls with the relevant internal service providers to review and monitor any breach log entries which are identified.

87.7. All members of staff in the London office have received AML refresher training and ongoing updates together with presentations on file opening requirements with teams from the US and the Fourth EU Money Laundering Directive.

87.8. Members of the US Risk Management Team (who include the COFA, COO, General Counsel and RCC) are fully aware of, and sensitive to, the need to consult with the COFA, COLP, MLRO and Managing Partner of the London office about issues involving clients of the London office, even if the issue arises in the US.

87.9. Automated daily cash receipt reports are generated to enable the dedicated US Accounts Payable function to identify all money coming into client accounts and to track the timing of payments out of client accounts in a timely manner. Bank reconciliations are performed monthly so any issues can be addressed speedily.

88. The Firm and Locke Lord LLP have also carried out a systematic review of their methodology and procedures to ensure the effective supervision of partners and fee-earners:

88.1. The London Office Managing Partner (the "**MP**") has also taken on the role of London Office Risk Partner and manages risk and compliance issues personally.

88.2. The MP conducts meetings with each partner on a bi-annual basis to identify the sources and nature of the partner's work. Current files are identified and discussed at monthly partners' meetings and the MP also conducts personal interviews with each associate to discuss development and identify any concerns which they may have about their work.

88.3. The MP has full access to hours worked, WIP and bills rendered for all matters for each timekeeper in the London Office. He reviews these records at least twice weekly.

88.4. Procedures for the supervision of associates have been reviewed and no associate is permitted to conduct any work without the direct supervision of a partner.

Cooperation by the Firm with the SRA and redress provided

89. The Firm self-reported to the SRA in respect of some but not all of the matters admitted in this document, including the manner in which certain monies were disbursed out of client account monies.

90. Throughout the SRA's investigation, the Firm has cooperated with the SRA.

91. The Firm has made the admissions set out above.

92. The Firm is dealing with a number of actual or threatened civil claims. The Firm has already entered into a number of settlements.

Agreed Outcomes

93. The Firm agrees:

    93.1. to pay a fine of £500,000; and

    93.2. to pay costs to the SRA in the sum of £25,000 plus VAT.

94. The Parties submit that in the light of the admissions set out above, the proposed outcomes represent a proportionate resolution of the matter, consistent with the Tribunal's Guidance Note on Sanctions 5th Edition.

Signed:

DWR PURCELL

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DANIEL WILLIAM ROBERT PURCELL

On behalf of the Solicitors Regulation Authority

Date 06.11.17

J C CLEMENTS

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On behalf of Locke Lord (UK) LLP
Date: 06.11.17