SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 — Case No. 11809-2018

BETWEEN:

SOLICITORS REGULATION AUTHORITY — Applicant

and

MAJOR SINGH-RAUD — Respondent

Before:

Ms A. E. Banks (in the chair)
Ms T. Cullen
Mr M. Palayiwa

Date of Hearing: 13 December 2018

Appearances

Nimi Bruce, barrister, employed by Capsticks Solicitors LLP, 1 St George's Road, Wimbledon, London SW19 4DR for the Applicant.

The Respondent did not attend and was not represented.

JUDGMENT

Allegations

1. The allegations against the Respondent made by the Solicitors Regulation Authority ("SRA") were that:

1.1 On 1 October 2017, he transferred client money totalling £90,000 from client bank account and misused this money to pay personal debts owed to HMRC; and in doing so he, breached Rules 20.1 of the SRA Accounts Rules 2011 ("SAR") and Principles 2, 4, 6 and 10 of the SRA Principles 2011 ("the Principles").

1.2 Between January 2016 to October 2017, he:

1.2.1 withdrew money from client account other than for the reasons permitted by the SAR; and

1.2.2 made withdrawals from client account in excess of money held on behalf of clients;

and in doing so he, breached any or all of Rules 20.1 and 20.6 of the SAR and Principle 10 of the Principles.

1.3 Between January 2015 to October 2017, he failed to keep accounting records in accordance with Rule 29 of the SAR in that he:

1.3.1 failed to keep accounting records properly written up to show his dealings with client money and office money (Rules 29.1 (a) and (b));

1.3.2 failed to appropriately record all dealings with client money on client ledgers (Rule 29.2 (b));

1.3.3 failed to appropriately record all dealings with office money relating to client matters (Rule 29.4);

1.3.4 failed to ensure that current balances on client ledger accounts were shown or were readily ascertainable (Rule 29.9); and

1.3.5 failed to carry out client account reconciliations (Rule 29.12)

1.4 Between at least July 2014 to October 2017, funds in respect of unpaid professional disbursements remained in office account and he did not pay the disbursements or transfer the sums to client account in breach of Rule 17.1(b) of the SAR.

1.5 During the period January 2016 to October 2017, he failed to remedy breaches of the SAR promptly upon discovery in breach of Rule 7 of the SAR.

1.6 Between January 2015 to October 2017, he failed to run his business or carry out his role in his business effectively and in accordance with proper governance and sound financial and risk management principles in breach of Principle 8 of the Principles and failed to achieve Outcome 7.4 of the SRA Code of Conduct 2011 ("the Code").

1.7 He has breached Principle 6 of the Principles by virtue of his conviction on 26 June 2017 at Stockport Magistrates Court for continuing to provide services in contravention of the Value Added Tax Act 1994 in circumstances where HMRC had issued a Notice of Requirement.

2. Dishonesty was alleged in respect of allegation 1.1, however dishonesty was not an essential ingredient for the proof of that allegation.

Documents

3. The Tribunal reviewed all the documents submitted by the parties, which included:

- Notice of Application dated 29 March 2018
- Rule 5 Statement and Exhibit LT1 dated 29 March 2018
- Respondent's Answer to the Rule 5 Statement dated 7 May 2018
- Respondent's Statement and supporting documentation dated 22 November 2018
- Applicant's Schedule of Costs dated 6 December 2018

Preliminary Matters

4. The Respondent did not attend and was not represented. He sent an email timed at 22.22 on Wednesday 12 December 2018 in which he stated:

> "I write to advise both the SDT and the SRA that I have today been diagnosed with gastroenteritis. I have been suffering for a number of days and so scheduled an appointment with my surgery. I was asked not to attend the surgery today in person due to the contagious nature of the same … I am unable to travel and have been strongly advised to stay indoors and remain self-contained for at least 48 hours. Due to the nature of my illness I will be unable to attend my hearing tomorrow in London. I ask that the SDT proceed with the hearing in my absence and treat my written statement as my evidence in chief. I ask that the matter is not adjourned in the circumstances."

5. Ms Bruce submitted that it was clear that the Respondent had been served with the proceedings in accordance with the Rules. He had engaged with the proceedings, providing both an Answer to the allegations and a witness statement. Not only had the Respondent not applied to adjourn the proceedings, but he had positively requested that the matter proceed in his absence. He admitted most of the allegations against him. On those areas where there was dispute, the case could be put to the Applicant's witnesses who were in attendance. In the circumstances the Tribunal could be satisfied that there would be no unfairness in proceeding in his absence.

6. The Tribunal noted that the Respondent had been served with the proceedings in accordance with its Rules. The Royal Mail provided proof of delivery dated 9 April 2018. The proceedings papers included Standard Directions for progression of the matter including the date of the substantive hearing. The Respondent filed and served his Answer to the Applicant's Rule 5 Statement on 8 May 2018. He had also filed and served his witness statement. The Tribunal noted that in his Answer, the Respondent had made comments regarding each allegation and each paragraph of the Rule 5 Statement. Those matters that were in dispute could be put to the witnesses in

attendance. The Respondent had specifically requested that the hearing take place in his absence. The Tribunal considered that there would be no unfairness to the Respondent if the matter proceeded in his absence. It was in the public interest and in the interests of justice that this case should be heard and determined as promptly as possible. Accordingly, The Tribunal was satisfied that in this instance it was appropriate to proceed in the Respondent's absence.

Factual Background

7. The Respondent was born in 1977 and was admitted to the Roll of Solicitors in September 2002. The Respondent's last Practising Certificate, which was for the practice year 2016/17, was suspended on 4 October 2017 when his firm, Major Singh Solicitors ("the Firm") was intervened into. The Respondent was also the Firm's Compliance Officer for Legal Practice (COLP) and the Compliance Officer for Finance and Administration (COFA).

8. On 18 January 2017, the Respondent was reported to the SRA for unpaid professional disbursements in the sum of £58,321.82. On 9 May 2017, a forensic investigation was commenced at the Firm and the Investigation Officer ("FIO") interviewed the Respondent on 25 July 2017. The FIO produced a report dated 11 August 2017 ("FIR") and noted that the books of account were not in compliance with the SAR.

Witnesses

9. The following witnesses provided statements and gave oral evidence:

   - Taranjeet Babra – Forensic Investigation Team Leader in the employ of the SRA.
   - Heather Anderson – Intervention Officer in the employ of the SRA.

10. The following witness provided a statement but was not required to give oral evidence:

   - John Owen – Solicitor instructed by the SRA in the intervention into the Firm.

11. 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

12. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Tribunal considered all the evidence before it, both written and oral, together with any submissions.

13. **Allegation 1.1 - On 1 October 2017, he transferred client money totalling £90,000 from client bank account and misused this money to pay personal debts owed to HMRC; and in doing so he, breached Rules 20.1 of the SAR and Principles 2, 4, 6 and 10 of the Principles.**

The Applicant's Case

13.1 On 2 October 2017, the Adjudication Panel at the SRA decided to intervene into the Respondent's practice. On 4 October 2017, the SRA's intervention agents and the SRA's Intervention Officer attended the Respondent's firm and spoke with him about a transfer in the sum of £90,000 that was made from client account on 1 October 2017.

13.2 The Respondent explained that the transfer was for HMRC to ensure that they did not declare him bankrupt (the Respondent having been served with a Statutory Demand from HMRC in the sum of £195,141.34 on 16 May 2017).

13.3 It was recorded in the attendance note that the SRA's Intervention Officer informed the Respondent that she had stopped the payment, as it was client money and should not have been transferred out of client bank account. However, in an email dated 6 October 2017, the SRA Intervention Officer confirmed that she had been informed by the Respondent's bank that the money was transferred from client account to the Respondent's personal account on the evening of 1 October 2017 and that it could not be returned. The SRA Intervention Officer also asked the Respondent to confirm whether the money was paid to HMRC so that the SRA could recover it. The SRA Intervention Agents also wrote to the Respondent by email on the same date requesting that he provide information from his bank showing that he had transferred £90,000 to HMRC.

13.4 On 3 January 2018, the SRA's Intervention Agents informed the Respondent that he would need to repay the £90,000 shortfall on client account and that HMRC had advised they required the Respondent's consent to release information to the SRA. The Respondent replied to the SRA's Intervention Agents in an email dated 11 January 2017 but did not address the issue of the missing £90,000.

13.5 As at the date of the Rule 5 Statement, the Respondent had not returned the client monies in the sum of £90,000, which he withdrew from client account on 1 October 2017 and misused for his personal benefit or provided his consent to enable HMRC to release information to the SRA's Intervention Agents.

13.6 Ms Bruce submitted that there was a duty on a solicitor holding client money to exercise proper stewardship in relation to it. That duty was violated if a solicitor failed to observe the rules. The SAR existed to protect the public and an onerous obligation was placed on solicitors to ensure that the Accounts Rules are observed. Rule 20.1 of the SAR set out the circumstances in which client money could be withdrawn from client account. The Respondent withdrew £90,000 from client bank account on 1 October 2017, in circumstances that were in breach of Rule 20.1. As to the Respondent's allegation that it was the removal of monies by both the Law Society and its intervention agents after the intervention that caused a shortage on the

client account, Ms Bruce submitted that this was inconsistent with the evidence and asked that the Tribunal consider such a submission to be wholly without merit.

13.7 A solicitor acting with integrity and in the best interests of his clients would not have taken client monies and misused those funds for his own benefit to settle personal debts to avoid bankruptcy. A solicitor acting with integrity would have immediately returned those funds when asked to do so by the SRA's Intervention Agents. In doing so, the Respondent had breached Principles 2 and 4 of the Principles.

13.8 The trust that the public places in solicitors, and in the provision of legal services, depends upon the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. Solicitors are required to discharge their professional duties with integrity, probity and trustworthiness. In withdrawing client money from client bank account and misusing that money for his own benefit, the Respondent did not discharge his professional duties with integrity, probity and trustworthiness and had damaged the trust that the public places in the solicitor and the provision of legal services in breach of Principle 6.

13.9 The Respondent cannot be said to have exercised proper stewardship in relation to client money, or protected client money and assets. The Respondent was not entitled to this money and in misusing client money for his own benefit, the Respondent had breached Principle 10 of the SRA Principles.

Dishonesty

13.10 The Respondent's actions were dishonest in accordance with the test for dishonesty laid down in Ivey (Appellant) v Genting Casinos (UK) Ltd t/a Crockfords (Respondent) [2017] UKSC 67: the conduct alleged was dishonest by the standards of ordinary decent people.

13.11 The Respondent acted dishonestly according to the standards of ordinary decent people as:

- The Respondent knew that he was facing bankruptcy, as HMRC had issued a Statutory Demand in the sum of £195,141.34 for unpaid tax liabilities for the firm and the Respondent personally on 16 May 2017.

- The Respondent deliberately used £90,000 of client money to pay his personal tax liability. The SRA Intervention Agents asked the Respondent to return the money that he had transferred from client bank account and at the date of the Rule 5 Statement, had failed to do so.

- The Respondent knew that he was not entitled to this money, as it was client money and he transferred that money in circumstances otherwise than in accordance with the SAR.

- The Respondent confirmed to the SRA Intervention Agents that he transferred the money from client account to ensure that HMRC did not declare him bankrupt.

The Respondent's Case

13.12 The Respondent denied allegation 1.1. He agreed that £90,000 was withdrawn from the client account on 1 October 2017. £80,000 was sent to HMRC which was allocated against a historic liability of the Firm in the sum of £77,264.88 for VAT. He returned £10,000 to the client account on 1 October 2017 to cover damages which were due to be paid to clients that were waiting for funds to clear. There was never any intention to deprive those clients of their funds, hence the return of the monies.

13.13 As at the date of the intervention there was £16,209.39 in the client account. Subsequent to the intervention a further £3,588 was received giving a total of £19,797.39 in the account. The monies due to clients was £11,168. Accordingly, there were sufficient funds in client account at the date of the intervention to cover damages due to clients.

13.14 The Respondent noted with some concern that it was the removal of funds from the client account by the Law Society and its intervention agents subsequent to the intervention that resulted in a shortfall on client account. There was £4,188 in client account when the account was closed and the money transferred on 6 October 2017. The Respondent had received no explanation as to where those funds were. The actions of the Law Society and its intervention agents "fly in the face of protecting client funds".

13.15 The Respondent, in his statement, submitted that he was aware of which clients were due damages and rightly returned those funds to the client account.

13.16 The Respondent stated that he ought to have transferred the funds from client to office account and then to his personal account. His failure to do so was a failure to adopt the correct procedure. He maintained that the funds were not client monies, but belonged to the Firm and thus to him. His failure to adhere to the correct procedure was an innocent oversight. It did not follow that as the transfer did not take the correct route, it was inherently dishonest. There was never any intention to deprive his clients of their funds at any time. Had there been an intention to deprive clients of funds, all of the monies in the client account would have been transferred out. Instead, there was "a total regard and respect for clients and £10,000 was returned to the client account by telephone banking to cover payments of damages that were due to clients."

13.17 The Respondent invited the Applicant to "produce evidence as to who the said funds belong to" if not to him. He submitted that no client ever lost money because of the transfer of funds from client account to his personal account, and that no clients, other than those identified by him in his Answer to the Rule 5 Statement, had come forward to claim damages due to them as there were no other clients to do so.

13.18 The Respondent did not accept or concede that he had acted dishonestly at all. He was fully aware that the transfer would be detailed in the annual accounts and monthly reconciliations and was fully aware of the ramifications of making a transfer that was not correct or had any element of dishonesty to it.

The Tribunal's Findings

13.19 In her oral evidence, Ms Anderson explained that having noticed the withdrawal of £90,000 she spoke to the Respondent in his office and asked him to explain why the monies had been transferred from client account to his personal account. The Respondent explained that HMRC would bankrupt him if he did not make payment. Ms Anderson put to him that he could not use monies from the client account to pay his debts. His response was simply to repeat that HMRC would bankrupt him. At no time did the Respondent say that the monies were in fact office monies that were due to him and that they were not client monies.

13.20 The Tribunal considered the email correspondence between the Respondent and Mr Owen in relation to the monies. The Tribunal noted that on 6 October 2017 an email was sent to the Respondent in relation to the £90,000. On 3 January 2018, the Respondent was again emailed. He was informed that "there is also of course the minimum shortfall of £90,000 following your admitted removal of client funds shortly before the intervention. This will need to be repaid by you whether or not you recover any work in progress costs." In his response to that email dated 11 January 2018, the Respondent failed to address the outstanding £90,000. Nor did he say at that stage that the monies were not client monies; he was silent on that point. In his email of 12 January 2018, in response to the Respondent's email of 11 January, the Applicant's intervention agent stated "both I and the SRA look forward to hearing from you further on the issue of the missing £90,000."

13.21 The Tribunal asked Ms Anderson to clarify the position as to the Respondent's understanding of the status of the monies. Ms Anderson was clear that she told the Respondent he was not entitled to use client monies for the payment of personal debts. The Respondent's response was to reiterate that HMRC would make him bankrupt.

13.22 The Tribunal found that even on his own case, the Respondent had improperly removed client monies for the payment of the debt to HMRC. It was not suggested by him that he was entitled to the £10,000 that he said he returned so as to fulfil damages obligations to clients. It was also not suggested that he had rendered any bills or other notification of costs that would entitle him to transfer the monies from client account in accordance with the SAR. The Respondent had failed to provide any evidence to show that the monies were not client monies. Given its findings as regard allegations 1.2 to 1.6 below, the Tribunal did not accept the Respondent's calculation as to what was due to clients as at the date of intervention to be accurate. He had failed to maintain proper books of account since at least January 2015, therefore he could not know for certain the amount of any outstanding liabilities to clients.

13.23 The Tribunal also noted that in the email exchange with the Applicant's intervention agents, at no point did the Respondent state the monies were not client monies, but money belonging to the Firm and thus to him. The Tribunal considered that this was an ex post facto justification by the Respondent for the improper use of monies that ought to have remained in the Firm's client account.

13.24 The Tribunal found beyond reasonable doubt that the withdrawal of the monies on 1 October 2017 was in breach of Rule 20.1. That such conduct failed to protect client monies and assets and was not in the best interests of clients was plain. Thus the Tribunal found beyond reasonable doubt that the Respondent had breached Principles 10 and 4 as alleged. It was also plain that no solicitor acting with integrity would have used client monies to pay personal or professional bills. That fact that the Respondent did evidenced his lack of integrity in breach of Principle 2. In using client monies in this way, the Respondent failed to maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6.

13.25 The Tribunal agreed that the appropriate test when considering dishonesty was that laid down in Ivey:

> "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."

13.26 The Tribunal considered that the Respondent was under pressure from HMRC to pay his debts. It was clear that at the time of the transfer, the Respondent was more concerned with avoiding bankruptcy that he was in complying with the SAR. Even on his own case, that he was entitled to the funds as they were office money, he knew that he was not entitled to the entirety, hence his return, on the same day, of £10,000. That £10,000, the Respondent stated was due to clients for damages. The Tribunal therefore found that even on the Respondent's case, he knew that he had taken client monies, to which he was not entitled, to satisfy a personal debt. It was also telling that at no point did the Respondent suggest that the monies were monies that were due to the Firm until an allegation of dishonesty was made.

13.27 Taking the Respondent's case at its highest, namely that £10,000 of the monies taken were client monies, the Tribunal determined that reasonable and decent people, operating ordinary standards of honesty, would consider that the Respondent's conduct in removing £10,000 of client monies to settle his own obligations was dishonest.

13.28 The Tribunal found beyond reasonable doubt, and on the full facts, that the Respondent's conduct had been dishonest. It also found beyond reasonable doubt on the Respondent's own case as to the monies, that his conduct was dishonest. Accordingly, the Tribunal found allegation 1.1 proved beyond reasonable doubt, including that the Respondent's conduct was dishonest.

14. **Allegation 1.2 - Between January 2016 to October 2017, he withdrew money from client account other than for the reasons permitted by the SAR; and made withdrawals from client account in excess of money held on behalf of clients; and in doing so he, breached any or all of Rules 20.1 and 20.6 of the SAR and Principle 10 of the Principles.**

The Applicant's Case

14.1 The FIO could not calculate the liabilities the Firm owed to its clients as at 31 March 2017 due to issues with the books of account. The FIO was able to calculate that there was a minimum cash shortage in the client bank account as at 31 March 2017 of £69,357.97, which was caused by:

- Incorrect payments/transfers from the client bank account totalling £21,357.97.
- Funds for the payment of professional disbursements (medical report fees) totalling £48,000 that were either incorrectly transferred from the client bank account to the office bank account or paid directly into the office bank account and not paid to PML.

14.2 The incorrect payments/transfers from client bank account totalling £21,357.97 were made up of: (1) £13,176.80, which was incorrectly transferred from the client bank account to clients on five matters; and (2) £8181.17 incorrectly transferred from the client bank account to the office bank account on seven client matters.

14.3 The largest sum incorrectly transferred from client bank account to a client totalled £10,633.04 with the smallest sum totalling £0.01. The largest sum incorrectly transferred from client bank account to office bank account totalled £8,181.17 with the smallest sum totalling £1.25.

14.4 The Applicant exemplified two matters:

LJ - £14,199.48

14.4.1 LJ was a client of the firm who brought a claim for personal injuries after suffering a road traffic accident on 4 November 2014. On 15 November 2015, the firm wrote to LJ confirming that his claim had been settled for £135,000 and that they were deducting various amounts leaving him with a settlement figure of £89,985.00. However, the client ledger showed that the Firm received £120,734.27 from the third-party insurers on 11 July 2016. After various deductions, the IO calculated that LJ was due the sum of £90,351.96. However, the Respondent's firm made various payments to LJ during the period 18 July 2016 to 16 November 2016, which totalled £100,985.00.

14.4.2 The FIO calculated that the firm's profit costs, including VAT amounted to £34,400.57. The Firm transferred a total of £37,967.01 from client bank account to office bank account for its costs. This led to the Firm overpaying damages to LJ in the sum of £10,633.04 and incorrectly transferring an additional £3,566.44 for costs leading to a shortage on the client bank account totalling £14,199.48. The Respondent accepted, during interview on

25 July 2017 with the FIO, that he made the payments/transfers and that there was shortage on the client bank account in that sum. The Respondent also informed the FIO in correspondence dated 7 August 2017 that LJ had agreed to return the funds to the firm at £500 per month starting at the end of August 2017.

14.4.3 The client ledger did not accurately show the balances on both the client and office side of the client ledger, as a payment made to the client in the sum of £39,985 from the client bank account on the 16 November 2016 was not posted to the client ledger. In addition, a mis-posting on 28 September 2016 in respect of an After the Event policy paid from the client bank account related to another client matter and a payment in the sum of £50 for medical notes was not recorded on the office side of the client ledger.

SR - £3,400.00

14.4.4 SR was a client of the Firm who brought a claim for personal injuries following a road traffic accident on 11 June 2016. The claim was settled on 14 September 2016 for £2,800.00. The Firm received £456 for stage one costs (comprising £240 for costs and £216 for the medical report fee), and £3,160.00 for stage two costs (comprising £360 for costs and £2,800.00 for damages), from the third-party insurers, such sums being paid directly into the office bank account.

14.4.5 On 25 October 2016, the Firm sent SR a payment for £1,893.75 after making various deductions. The client ledger for SR showed that between 27 September 2016 and 24 October 2016, the Firm made various payments from the client bank account in respect of disbursements, damages and costs which were not posted to the client ledger. As the funds received from the third-party insurers were paid directly into the office bank account, the Firm did not hold any funds in the client bank account for SR and as at 31 March 2017, there was a shortage on client account in the sum of £3,400.00.

14.5 The Respondent accepted during his interview with the FIO that there was a cash shortage in the client bank account in the sum of £3,400.00. He also accepted during interview that there was an unaccounted shortage in client account in respect of unpaid professional disbursements as at the extraction date of 31 March 2017. The Respondent further accepted that he had breached Rule 20 of the SAR.

14.6 As at the date of the FIR, the Respondent had not replaced the minimum cash shortage. He informed the FIO during his interview on 25 July 2017 that he proposed to replace the shortage within the next 12 weeks using a combination of future profit costs, personal savings and loans. He confirmed in representations dated 5 September 2017, that £21,357.97 was paid towards the minimum cash shortage on 3 September 2017 for the incorrect payments/transfers. The Respondent's representative also confirmed in an email dated 17 September 2017 that the Respondent accepted that the unpaid professional disbursements represented a shortage on the Firm's client account and that he was not in a position to replace the sum owed to PML, although he had proposed a payment plan to PML.

14.7 Ms Bruce submitted that there was a duty on a solicitor holding client money to exercise proper stewardship in relation to it. The SAR existed to protect the public and an onerous obligation was placed on solicitors to ensure that the Accounts Rules are observed. The FIR identified deficiencies in the books of account and showed that the firm's records were not reliable.

14.8 Rule 20.1 of the SAR set out the circumstances in which client money could be withdrawn from client account. Rule 20.6 of the SAR stated that money withdrawn from client account must not exceed money held on behalf of that client. Incorrect payments/transfers from client bank account totalling £21,357.97 were made by the Respondent who was ultimately responsible for the Firm's accounts as sole principal and COFA. Client LJ was overpaid damages in the sum of £10,633.04 and the Firm transferred an additional £3566.44 for costs leading to a shortage on the client bank account totalling £14,199.48. As the Firm held no money on client account for SR, payments made to SR for damages and to the Firm for costs led to a shortage on client account in the sum of £3,400.00 in breach of Rule 20.6 of the SAR.

14.9 There was also an unaccounted shortage in client account in respect of unpaid professional disbursements totalling £48,000 as at the extraction date of 31 March 2017, which all led to a minimum case shortage of £69,357.97 in breach of Rule 20.1 of the SAR.

14.10 Principle 10 of the SRA required a solicitor to protect client money and assets, which had been entrusted to him or his Firm by clients. Solicitors holding client money also had a duty to exercise proper stewardship in relation to it. In withdrawing money from client account otherwise than in accordance with Rule 20.1 of the SAR and withdrawing money from client account in excess of funds held on behalf of clients, the Respondent had breached Rules 20.1 and 20.6 of the SAR. In allowing a shortage on client account to arise, the Respondent had failed to protect client money and assets in breach of Principle 10 of the Principles.

The Respondent's Case

14.11 In his Answer dated 7 May 2018, the Respondent agreed with the Applicant's facts and submissions detailed above.

The Tribunal's Findings

14.12 The Tribunal found allegation 1.2 proved beyond reasonable doubt on the facts and the evidence. The Tribunal considered that the Respondent's admissions were properly made.

15. **Allegation 1.3 - Between January 2015 to October 2017, he failed to keep accounting records in accordance with Rule 29 of the SAR in that he: failed to keep accounting records properly written up to show his dealings with client money and office money (Rules 29.1 (a) and (b)); failed to appropriately record all dealings with client money on client ledgers (Rule 29.2 (b)); failed to appropriately record all dealings with office money relating to client matters (Rule 29.4); failed to ensure that current balances on client ledger accounts were**

shown or were readily ascertainable (Rule 29.9); and failed to carry out client account reconciliations (Rule 29.12).

The Applicant's Case

15.1 The FIO noted that client ledgers did not accurately record the transactions undertaken on client matters in both the client and office bank account. Client ledgers did not accurately show funds held in the client bank account for individual clients.

15.2 The books of account had not been properly maintained since at least January 2015. The Respondent's tax advisor brought issues regarding the books of account to the Respondent's attention in January 2016 when preparing the Respondent's self-assessment returns. The Respondent informed the FIO during the initial meeting on 9 May 2017 that he became aware that there were problems with the books of account in around July 2016 when he realised his previous accountants had not been making postings to the trial balance.

15.3 From January 2015, the IO noted that postings had not been properly made to the client ledgers and client bank account reconciliations were not being completed every five weeks. The Respondent informed the IO during the initial meeting that the client ledgers and client account reconciliations were behind and that there were no reconciliations from January 2015 until at least September or October 2016.

15.4 On 10 March 2017, the Respondent employed a new bookkeeper who undertook a review of the client account bank statements and identified at least 213 queries on client ledgers, totalling £187,950.46, which dated back to entries on the client bank account statements in November 2014. The queries raised included: not being able to identify the relevant client ledger(s) for all of the queries raised; entries on the client bank statements not showing on the client ledgers; or mis-postings to the client ledgers.

15.5 The new bookkeeper confirmed that the previous bookkeeper had indicated that the records had only been posted and the client bank reconciled up to 22 May 2016. The new bookkeeper also confirmed that the last entry was 22 April 2016 and that postings done after 22 May 2016, where there had been bank transfers between accounts, had only been debited from the client account and not credited to the office account.

15.6 During the initial meeting with the FIO on 9 May 2017, the Respondent confirmed that there were still approximately 150 queries on the ledgers and by 7 August 2017, the Respondent confirmed that there were around 111 queries yet to be addressed.

15.7 The FIO reviewed a sample of the affected ledgers, it not being practical to review all the ledgers due to the number of errors on them. The reviewed sample showed that errors arose because either incorrect postings had been made to the client or office side of the client ledgers, or postings had not been made to the client or office side of the client ledgers for payments or receipts of funds into or out of the client and office bank accounts.

15.8 The FIO noted that on the 17 files reviewed, the balances showing on the client or office side of the client ledgers as at 31 March 2017 were incorrect. Because of the incorrect postings, in some instances debit balances had arisen on client matters, which were not recorded by the Firm's ledger accounts. These debit balances comprised shortages in client bank account.

15.9 The Respondent confirmed during his interview that whilst he had addressed some of the queries raised by his new bookkeeper, no corrections were made to the client ledger and no funds were paid back to the client bank account. The Respondent accepted during interview that due to the number of issues raised by the new bookkeeper, the balances on the client and office side of the client ledgers could not be relied upon and that the books of account were not properly maintained.

15.10 The FIO noted that as at 31 March 2017, there was a total of 250 client ledgers totalling £179,736.27, which had credit balances showing on the office side of the client ledgers, which ranged from £0.01 to £5,194.00.

15.11 The FIO was unable to ascertain the cause of the office credit balances, or whether they were correctly stated due to issues with the books of account and client ledgers. Following a review of a sample of client files where the client ledger showed an office credit balance, the FIO noted that some of the office credit balances related to client money incorrectly transferred to the office bank account and funds for unpaid professional disbursements held in the office bank account.

15.12 Rules 29.1(a) and (b) of the SAR requires solicitors at all times to keep accounting records properly written up to show their dealings with client and office money. Rule 29.2 (b) requires solicitors to appropriately record their dealings with client money on the client side of separate client ledgers for each client. Solicitors are required under Rule 29.4 of the SAR to record all dealings with office money, relating to a client matter, in an office cash account and on the office side of the appropriate ledger.

15.13 Client ledgers did not accurately record the transactions undertaken on client matters in both the client and office bank account and client ledgers did not accurately show funds held in the client bank account for individual clients. This was in breach of Rules 29.1 (a), 29.1(b) and 29.4 of the SAR.

15.14 Current balances must always be shown or be readily ascertainable from records in order to comply with SAR 29.9. As at 31 March 2017, there was a total of 250 client ledgers totalling £179,736.27, which had credit balances showing on the office side of the client ledgers ranging from £0.01 to £5194.00. The FIO was unable to ascertain the cause of the office credit balances, or whether they were correctly stated due to issues with the books of account and client ledgers. Due to the number of issues raised by the bookkeeper, the balances on the client and office side of the client ledger could not be relied upon and this was in breach of Rule 29.4 of the SAR.

15.15 Rule 29.12 required solicitors to carry out reconciliations, at least once every five weeks, by comparing balances on client cash accounts with balances on statements and passbooks after allowing for unpresented items; prepare a listing of all balances shown by the client ledger accounts of liabilities to clients and compare those

balances with the balance on the client cash account. Rule 29.12 also requires solicitors to prepare reconciliation statements, showing the cause of any difference in the comparisons. From January 2015, postings had not been properly made to the client ledgers and client bank account reconciliations were not being completed every five weeks. The Respondent confirmed that client ledgers and client account reconciliations were behind and that there were no reconciliations from January 2015 until at least September or October 2016. This was in breach of Rule 29.12 of the SAR.

The Respondent's Case

15.16 The Respondent accepted that he had breached the SAR. He denied that the breaches had occurred since January 2015, citing the correct date as January 2016. The Tribunal was directed to the report of Mr WB, an accountant and tax advisor, dated 1 September 2017. Mr WB explained that he was first contacted by the Respondent in April 2015 when he was approached to review the Respondent's and the Firm's tax affairs. At that time, any financial reports requested by him, including trial balances and nominal ledger reports, were readily available and appeared in order.

15.17 The Tribunal was also referred to a letter of 5 September 2017 written by the Respondent's then legal representative to the Applicant. In that letter it was stated:

> "[Mr WB] was able to extract a comparative trial balance for 2014/2015 (year end 22 May 2015) that was complete. Such formed the basis of the Accountants Report AR1 Submitted on 18 November 2015 for the period 22 May 2015. [The Respondent] concludes therefore that the accounts must have been up to date as at January 2015, because otherwise the Report could not have been submitted on 18 November 2015."

15.18 Other than the dates alleged, the Respondent did not dispute any other elements of the Applicant's case as regards allegation 1.3.

The Tribunal's Findings

15.19 In his oral evidence, Mr Babra explained that the date of January 2015 was correct. This was based on the evidence he saw during the investigation and what was told to him by the Respondent, namely that the client ledgers had not been updated since at least January 2015. Mr Babra also recalled that there were a number of errors on the books of account that predated January 2015. His review of the list of client ledger queries provided by the Firm showed that there were queries on the client account bank statement that dated back to November 2014.

15.20 The Tribunal noted that the list of queries produced by the Firm referred to matters that pre-dated January 2016. The Tribunal had been referred to the matter of MK. In that matter the funds were received by the Firm on 25 November 2015, and were paid into the Firm's client account on 26 November 2015. However, the funds were not recorded on MK's ledger, but on the ledger of an unrelated client. Those facts, which were not disputed by the Respondent, demonstrated beyond reasonable doubt that errors were occurring prior to January 2016.

15.21 Accordingly, the Tribunal found allegation 1.3 proved beyond reasonable doubt, with the conduct complained of taking place from at least January 2015 as alleged.

16. **Allegation 1.4 - Between at least July 2014 to October 2017, funds in respect of unpaid professional disbursements remained in office account and he did not pay the disbursements or transfer the sums to client account in breach of Rule 17.1(b) of the SAR.**

The Applicant's Case

16.1 On 18 January 2017, SS LLP made a report to the SRA about unpaid fees due to their client PML. PML had entered into an agreement on or about 1 April 2014 to accept instructions from the Respondent's firm to conduct medical examinations and prepare reports. PML had received over 305 instructions from the Firm and in each case, invoices were forwarded to the Firm.

16.2 The Respondent had made some payments to PML. However, a very large proportion of professional fees on settled cases remained unpaid. PML calculated the work in progress value was £146,187.00. The accounts provided by Respondent appeared to show that the outstanding amount payable to PML totalled £56,729.50 and that this sum was in the Firm's office account rather than client account. During his interview, the Respondent accepted that these funds were client money and should not have been held in the firm's office bank account.

16.3 The Firm had successfully settled the personal injury claims and had received payment for medical report fees from the third-party insurers but had not paid these fees to PML. PML calculated that the outstanding sum totalled £58,321.82. The Respondent disputed this sum, as he thought the amount was approximately £48,000.00.

16.4 The FIO reviewed a sample of five client files noted that funds for the payment of professional disbursements (medical report fees) were either paid into the client bank account and incorrectly transferred from the client bank account to the office bank account with the medical report fees not being paid or transferred back to client bank account or paid into the office bank account but the professional disbursements were not paid and the funds were not transferred to the client bank account as required by Rule 17.1(b) of the SAR.

16.5 During his interview the Respondent explained that:

- He would pay damages into client bank account and pay damages to clients and disbursements due, seven working days thereafter.

- He would not check the client ledgers before making any payments but would refer to the firm's internal records, which was a spreadsheet showing cheques received, who they were from and the breakdown of the cheque.

- He did not make payments for professional disbursements due to the fact that he was not able to manage his day to day caseload and the general management of the office, which just became too much.

16.6 The Respondent accepted that the funds received for the payment of professional disbursements, which were paid directly into office account and not paid or transferred back to client account within two working days, was a breach of Rule 17.1(b) of the SAR. The Respondent also confirmed that he was responsible for ensuring that professional disbursements were paid.

16.7 Rule 17.1(b) of the SAR required solicitors who receive money in full or part settlement of their bill (or other notification of costs) to deal with professional disbursements by placing the sum in office account and by the end of the second working day following receipt, to either pay that unpaid professional disbursement, or transfer it to client account. In failing to either pay PML or transfer the sums due to PML into client account by the end of the second day following receipt, the Respondent breached Rule 17.1(b) of the SAR.

The Respondent's Case

16.8 In his Answer dated 7 May 2018, the Respondent agreed with the Applicant's facts and submissions detailed above.

The Tribunal's Findings

16.9 The Tribunal found allegation 1.4 proved beyond reasonable doubt on the facts and the evidence. The Tribunal considered that the Respondent's admissions were properly made.

17. **Allegation 1.5 - During the period January 2016 to October 2017, he failed to remedy breaches of the SAR promptly upon discovery in breach of Rule 7 of the SAR.**

The Applicant's Case

17.1 Ms Bruce relied on the facts and matters detailed in allegations 1.1 to 1.4 above.

17.2 The books of account had not been properly maintained since at least January 2015. The Respondent's tax advisor brought issues regarding the books of account to the Respondent's attention in January 2016 when preparing the Respondent's self-assessment returns. The Respondent also informed the FIO during the initial meeting on 9 May 2017 that he became aware that there were problems with the books of account in around July 2016, when he realised his previous accountants had not been making postings to the trial balance.

17.3 The FIO was able to calculate that there was a minimum cash shortage in the client bank account as at 31 March 2017 of £69,357.97. As at 11 August 2017, the Respondent had not replaced the minimum cash shortage. As at 1 October 2017, there was a further cash shortage in the sum of £90,000, arising from the Respondent's misuse of client monies, which the Respondent had not replaced.

17.4 Between January 2016 to October 2017, the Respondent withdrew money from client account other than for reasons permitted by the SAR and made withdrawals from client account in excess of money held on behalf of clients.

17.5 During interview with the IO on 25 July 2017, the Respondent confirmed that he had not transferred funds received for unpaid medical report fees from office bank account to client bank account within two working days in breach of Rule 17.1(b) of the SAR. This particular breach started from at least July 2014 to 4 October 2017, when the Respondent's Firm was intervened into.

17.6 The Respondent admitted during interview that he was ultimately responsible for supervising the accounts and had not adequately supervised the books of accounts. The Respondent confirmed that for the period, he had not taken any steps to ensure that the books of account were being maintained. The Respondent accepted that the books of account were not properly maintained in accordance with the SAR and as at the date of the interview (25 July 2017), the Respondent confirmed that the accounting records were being maintained but were not up to date. The Respondent also admitted breaches of the SAR in representations dated 5 September 2017 and stated that one of the reasons for the errors in the books of account was the failure on the part of the Firm's previous bookkeeper/accountants.

17.7 Rule 7 of the SAR required solicitors to remedy breaches of the Rules promptly upon discovery. This included replacement of any money improperly withdrawn or withheld from a client account. The duty extended to principals in the Firm replacing missing client money from their own resources. The Respondent, as principal of his Firm, was therefore responsible for remedying the breaches promptly upon discovery and replacing missing client money. The Respondent knew from at least January 2016 that there were issues with the books of account when these were brought to his attention by his tax advisor. The Respondent also knew that funds received for unpaid medical report fees were not being dealt with properly in accordance with the SAR. In failing to remedy breaches of the SAR promptly during the period of at least January 2016 to October 2017, the Respondent breached Rule 7 of the SAR.

The Respondent's Case

17.8 For the reasons detailed in paragraphs 15.16 and 15.17 above, the Respondent denied that the breaches occurred prior to January 2016. He agreed that there had been a minimum cash shortage on the client account as at 31 March 2017 of £69,357.97. He denied the further cash shortage of £90,000 as at 1 October 2017. As he had explained, the monies taken by him to pay HMRC were office monies due to him. His only error had been in transferring the sums directly from client account to his personal account, as opposed to transferring the monies from client account to office account and then to his personal account. Further, he had paid £10,000 back into the client account on 1 October 2017 to cover damages which were due to be paid to clients.

17.9 Other than those matters, the Respondent agreed with the facts and submissions made by the Applicant.

The Tribunal's Findings

17.10 For the reasons detailed above for allegations 1.1 and 1.3, the Tribunal found that an additional minimum cash shortage of at least £80,000 existed on the client account as

at 1 October 2017, and that the books of account were not properly maintained from at least January 2016. Accordingly, the Tribunal found allegation 1.5 proved beyond reasonable doubt. The Respondent's admissions were properly made; the Tribunal found the allegation proved in full.

18. **Allegation 1.6 – Between January 2015 and October 2017, he failed to run his business or carry out his role in his business effectively and in accordance with proper governance and sound financial and risk management principles in breach of Principle 8 of the Principles and failed to achieve Outcome 7.4 of the Code.**

The Applicant's Case

18.1 Two Statutory Demands had been served on the Respondent. The first, sent on 30 March 2017, was from SS LLP on behalf of PML for the sum of £58,321.82 in respect of unpaid medical report fees. The Respondent informed the FIO that his solicitors were in negotiation with SS LLP regarding a one off proposal to settle the account. The Respondent's solicitors later confirmed that the amount they calculated as owed to PML was in fact £48,211. In the letter of representations dated 5 September 2017, the Respondent stated that the Statutory Demand had been discontinued and there were ongoing negotiations regarding the debt.

18.2 The second Statutory Demand was from HMRC in the sum of £195,141.34 for unpaid tax liabilities for the Firm and the Respondent personally. The Statutory Demand was issued by HMRC on 16 May 2017, although HMRC initially warned the Respondent of bankruptcy in a letter dated 3 April 2017. This letter stated that the Respondent owed HMRC a total of £197,368.91 (including interest) dating back to 5 April 2013. The debts related to the Respondent's self-assessment liabilities, late payment fees and tax liabilities relating to NI, PAYE and VAT. The Respondent disputed this sum and informed the FIO that he believed he owed £70,000 to HMRC.

18.3 The Statutory Demands totalled £253,463.16. The Respondent thought the total owed was approximately £118,000 comprising of £70,000 owed to HMRC and £48,000 owed to PML. The Respondent informed the FIO during interview that he believed that HMRC had not taken into account payments, which he had made.

18.4 The Respondent had put forward proposals to repay the debt owed to PML at £3,000 per month and in respect of HMRC, he had proposed to repay that debt at £10,000 per month. HMRC rejected the Respondent's proposals to repay the debt by monthly instalments of £10,000. In his letter of representations of 5 September 2017, the Respondent confirmed that the debt with HMRC was in the sum of £194,095.40 after he had paid £10,000 on 29 August 2017.

18.5 The FIO noted from cash flow projections provided by the Respondent that no provision had been made for the repayment of these debts and the projected cash flow would not be sufficient to make the monthly payments, which he proposed.

18.6 Principle 8 required solicitors to run their business or carry out their role in the business effectively and in accordance with proper governance and sound financial and risk management principles. Outcome 7.4 required solicitors to maintain systems

and controls for monitoring the financial stability of their firm and risks to money and assets entrusted to them by clients and others, and that they take steps to address issues identified. In being served with Statutory Demands relating to debts incurred by his Firm and not being able to pay those debts, the Respondent could not be said to have run his business or carried out his roles in the business effectively and in accordance with proper governance and sound financial and risk management principles thereby breaching Principle 8 of the Principles. The failure to ensure that debts relating to his practice were paid meant that the systems and controls for monitoring the financial stability of his firm and risks to money and assets entrusted to the Respondent by clients and others was inadequate. The Respondent had thereby failed to achieve Outcome 7.4.

The Respondent's Case

18.7 The Respondent explained that a commercial settlement had been reached with SS LLP and all insolvency proceedings issued by SS LLP on behalf of PML had been withdrawn. He denied that there was no provision for repayment of the debts to HMRC and PML in the cash flow projection. In all other respects, the Respondent agreed with the Applicant's case.

The Tribunal's Findings

18.8 The Tribunal noted that, other than the Respondent's disagreement as to whether provision was made in his cash flow projection for repayment of the debts to PML and HMRC, he did not dispute the Applicant's case. The Tribunal did not consider the question as to the provision or otherwise of repayment of the debts to be relevant to its consideration of allegation 1.6. The relevant matters were that the Respondent had received Statutory Demands as a result of his failure to pay the Firm's liabilities. In failing to make those payments it was clear that the Respondent had failed to run his business or carry out his roles in the business effectively and in accordance with proper governance and sound financial and risk management principles. Accordingly, the Tribunal found beyond reasonable doubt that the Respondent had breached Principle 8 of the Principles. It was also clear that he had failed to maintain systems and controls for monitoring the financial stability of his Firm and risks to money and assets entrusted to him by clients and others. He had thus failed to achieve Outcome 7.4. The Tribunal found allegation 1.6 proved beyond reasonable doubt on the facts and the evidence. The Tribunal considered that the Respondent's admissions were properly made.

19. **Allegation 1.7 – The Respondent breached Principle 6 of the Principles by virtue of his conviction on 26 June 2017 at Stockport Magistrates Court for continuing to provide services in contravention of the Value Added Tax Act 1994 in circumstances where HMRC had issued a Notice of Requirement.**

19.1 On 26 June 2017, the Respondent reported to the SRA that he had appeared at Stockport Magistrates Court on 23 June 2017 where he pleaded guilty and was convicted of continuing to provide services where VAT was charged, despite a Notice of Requirement being issued by HMRC. The Respondent was fined £3,000 and ordered to pay costs of £85 and a victim surcharge of £170.

19.2 The Respondent explained in his report that the Notice of Requirement stipulated that he was to provide security in the sum of £53,227.70 and that a payment of £20,000 was made towards that security on 18 October 2016. However, as he continued to provide a taxable supply of services without giving the security, this was in contravention of paragraph 4(2) of Schedule 11 of the Value Added Tax Act 1994 and contrary to section 72(11) of the same Act.

19.3 The Respondent confirmed during interview with the IO on 25 July 2017 that the security requested in the Notice of Requirement related to the VAT debt, which was included in the Statutory Demand issued by HMRC.

19.4 Principle 1 of the Principles placed an obligation on a solicitor to uphold the rule of law and the proper administration of justice. That required solicitors, amongst other things, to abstain from criminal behaviour at all times. As the Respondent was convicted of a criminal offence, he had breached Principle 1.

19.5 Principle 2 required a solicitor to act with integrity. A solicitor acting with integrity would not engage in criminal activity such that the Respondent had been convicted of, that was, continuing to provide a taxable supply of services despite knowing that he was required to provide security. A solicitor engaging in such criminal activity may properly be said to lack moral soundness, rectitude and steady adherence to an ethical code so as to lack integrity, in breach of Principle 2.

19.6 The trust that the public placed in solicitors, and in the provision of legal services, was dependent upon the reputation of the solicitors' profession as one in which every member may be trusted to the ends of the earth. The conviction of a solicitor for any criminal offence particularly one which related to their practice, undermined the reputation of the profession and the trust that the public placed in the provision of legal services in breach of Principle 6.

The Respondent's Case

19.7 The Respondent agreed with the facts and submissions made by the Applicant. He highlighted that his conviction was not one that involved dishonesty.

The Tribunal's Findings

19.8 The Tribunal noted that whilst in the body of the Rule 5 Statement, the Applicant particularised breaches of Principles 1 and 2 that had not been alleged in the allegations section at the beginning of the Rule 5 Statement where the allegations had been set out. The Tribunal considered that notwithstanding the Respondent's seeming admission to those matters, as they had not been specifically alleged in the allegations, it was not proper for the Tribunal to make any findings.

19.9 The Tribunal found that by virtue of his criminal conviction, and in particular a conviction relating to his Firm, the Respondent's conduct undermined the trust placed in him and in the provision of legal services. Accordingly, the Tribunal found allegation 1.7 proved beyond reasonable doubt.

Previous Disciplinary Matters

20. None before the Tribunal.

Mitigation

21. In his statement the Respondent described himself as a solicitor with an exemplary practising record. He had always held unconditional practising certificates. He offered no opposition to the allegations made against him during the interview and had conceded most of the allegations at the earliest opportunity.

22. He acknowledged that he had a duty to prevent the bookkeeping errors that had occurred and to take steps to rectify errors sooner than he did, irrespective of his personal situation and circumstances. He apologised to the Tribunal and to the SRA for the damage he had caused to the reputation of the profession.

23. The Respondent accepted that a sanction should be imposed, but that to strike him from the Roll would be "a draconian approach" to be taken by the Tribunal, as it would leave him without the profession he had worked so hard to become a member of. The Respondent proposed that an appropriate sanction would be a 2 year suspension, with the time he had been suspended thus far (12 months) to be taken into account; a fine of £5,000 and conditions that he was not to operate as manager/owner or sole practitioner.

24. The Respondent accepted he had direct control but submitted that he was inexperienced at running his own Firm; he had underestimated what was necessary to successfully run a practice. He had found it difficult to "juggle both the role as a principal and manager with the role of a fee earner and case running solicitor". Whilst there was no actual harm to clients, it was conceded that there was the potential for harm to be substantial to the reputation of the profession.

25. The incorrect retention of client funds was "less than 24 hours" as the transfer from his personal account back to client account was made "as soon as I realised that I had transferred too much".

26. The Respondent further submitted that he had assisted the SRA in all areas of their investigation, provided prompt responses to points raised and retrieved all files requested from the off-site archive in a prompt manner.

Sanction

27. The Tribunal had regard to the Guidance Note on Sanctions (5th Edition). The Tribunal's overriding objectives, when considering sanction, was the need to protect the public and maintain public confidence in the integrity of the profession. In determining sanction, it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances.

28. The Tribunal recognised that the mitigation contained in the Respondent's statement was predicated on its not finding that his conduct had been dishonest. The Tribunal considered that the Respondent's motivation was to avoid being made bankrupt. He explained to the intervention agents that that was the reason he had withdrawn the monies. The Tribunal considered therefore that his conduct was entirely for his own financial benefit. Such conduct was planned and had taken place on a Sunday, two days prior to the intervention agents attending the Respondent's Firm. That his conduct was in breach of the trust that clients placed in him to safeguard their monies was plain. The Respondent was the only person who could affect such a transfer and thus was directly in control of the circumstances giving rise to the misconduct as regards the £90,000 transfer. Further, as he accepted, he was also responsible for ensuring the books of account were properly maintained; he failed to do so. When he was made aware of the situation by his tax advisor and the freelance legal cashier, he failed to promptly rectify the errors. The Tribunal considered that the Respondent was an experienced solicitor, who at the time he was the Principal at the Firm, had eight years' experience. He was the Firm's COFA; as such his duty to ensure compliance with the SAR ought to have been even more obvious to him.

29. His conduct had caused harm to the reputation of the profession. The Tribunal had found that he had breached public trust as a result of his actions. Members of the public would be extremely concerned to know that the Respondent had failed to ensure that he had proper stewardship of client monies and had failed to properly record transactions relating to client monies. He had allowed there to be a shortage on client account and had removed monies from client account in contravention of the SAR. He had been convicted of a criminal offence that related to his practice. Such harm, the Tribunal found, was reasonably foreseeable.

30. His misconduct was aggravated by his proven dishonesty. This increased the harm caused to the profession, as per Coulson J in SRA v Sharma [2010] EWHC 2022 Admin:

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

31. The Tribunal found that in knowingly taking client monies to satisfy his personal/Firm's liabilities, the Respondent's conduct was deliberate. His failures as regards the Firm's accounts were repeated and had continued over time. The Respondent knew that he was in material breach of his obligations to protect the public and the reputation of the profession. Further, as a result of his conduct, there had been claims on the compensation fund.

32. Given the serious nature of the allegations, the Tribunal considered and rejected the lesser sanctions within its sentencing powers such as no order, a reprimand or restrictions. The Tribunal had regard to the case of Bolton v Law Society [1994] 2 All ER 486 in which Sir Thomas Bingham stated:

> "....Lapses from the required standard (of complete integrity, probity and trustworthiness)....may....be of varying degrees. The most serious involves proven dishonesty....In such cases the tribunal has almost invariably, no

matter how strong the mitigation advanced by the solicitor, ordered that he be struck off the roll of solicitors."

33. The Respondent did not submit, and the Tribunal did not find, any exceptional circumstances in this case. The only appropriate and proportionate sanction, in order to protect the public, and maintain public confidence in the integrity of the profession and the provision of legal services, was to order that the Respondent be struck off the Roll of Solicitors.

Costs

34. Ms Bruce applied for costs in the sum of £18,925.38 as per the costs schedule. This had been a complex investigation with multiple allegations and voluminous documents. There should be a reduction for the shortened hearing time.

35. The Tribunal considered that the costs claimed were reasonable and proportionate. It deemed it appropriate to reduce the costs to take account of the hearing day being shorter than anticipated. It determined that the appropriate and proportionate reduction in that regard was £1,000. Accordingly, the Tribunal ordered that the Respondent pay the costs of and incidental to the application in the sum of £17,925.38

Statement of Full Order

36. The Tribunal Ordered that the Respondent, MAJOR SINGH-RAUD, 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 £17,925.38.

Dated this 21st day of January 2019
On behalf of the Tribunal

A. E Banks
Chair