

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11944-2019

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

TRACEY ANN SHEEHAN

Respondent

Before:

Mr B. Forde (in the chair)

Mrs A. Kellett

Dr S. Bown

Date of Hearing: 7 to 11 June 2021

Appearances

Edward Levey QC, barrister, of Fountain Court Chambers, for the Applicant.

Jonathan Goodwin, solicitor, of Jonathan Goodwin Solicitor Advocate Limited, for the Respondent.

JUDGMENT

Allegations

1. The initial allegations made against the Respondent were set out in a Rule 5 Statement dated 8 April 2019 and Rule 7 Statement dated 22 July 2019 and were that:
 - 1.1 On or about 13-14 February 2015 she sent a schedule about her financial performance (“the FP schedule”) at Taylor Wessing solicitors LLP covering the financial years 2011/2012, 2012/2013 and 2013/2014 to JB of Red Law Recruitment for the purposes of forwarding on to Dentons LLP, knowing that the information contained in the FP schedule was untrue or in the alternative ought to have known that the information contained in the FP schedule was untrue, in breach of all or alternatively any of Principles 2 and 6 of the SRA Principles 2011 (“the Principles”).
 - 1.2 On 28 April 2015 she approved a proposal form which was submitted to the partnership admission committee of Dentons LLP which included information that she had provided relating to her billable hours and fees generated whilst she was a partner at Taylor Wessing Solicitors LLP, knowing that the information she had provided was untrue or in the alternative ought to have known that the information she had provided was untrue, in breach of all or any of Principles 2 and 6.
 - 1.3 On 28 April 2015 she signed a proposal form for submission to the partnership admission committee of Dentons LLP in which she confirmed the following “*The information supplied in this document is true and accurate as at the date supplied and is supplied in good faith. I have made all the appropriate disclosures in relation to my candidacy in this form. I understand that Dentons will rely on the information in this form*”, when she knew that the information supplied in the document was not true or accurate or in the alternative should have known that the information supplied in the document was not true or accurate, in breach of all or alternatively any of Principles 2 and 6.
 - 1.4 On 27 July 2016 she sent an e-mail to Mr SS, a partner at Dentons LLP in which she knowingly misrepresented her billings in relation to client MM, or in the alternative ought to have known that she misrepresented her billings in relation to client MM, in breach of all or alternatively any of Principles 2 and 6.
 - 1.5 Between December 2016 and April 2017 she provided Hill Dickinson LLP with a business plan and a schedule of her hours and billings as part of a recruitment process for her to become a partner, knowing that the information in the business plan and in the schedule was untrue or in the alternative ought to have known that the information contained in the business plan and schedule was untrue, in breach of all or alternatively any of Principles 2 and 6.
2. Dishonesty was alleged against the Respondent in respect of all of allegations 1.1 to 1.5; however, proof of dishonesty was not an essential ingredient for proof of the allegation.

Documents

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

Applicant

- Application and Rule 5 Statement dated 8 April 2019 with exhibits;
- Rule 7 Statement dated 22 July 2019 with exhibits;
- A “relevant correspondence” folder of documents comprising 6 pages.
- Civil Evidence Act Notice dated 30 September 2019 and accompanying letter;
- Certificate of readiness dated 7 October 2019;
- Witness statement of James Bisset dated 30 September 2019 November 2020 with exhibits;
- Second witness statement of Marianne Robson dated 26 September 2019 with exhibit;
- Statements of Costs dated 8 April 2019, 22 July 2019, 18 November 2019 and 2 March 2020.

Respondent

- Answer to Rule 5 Statement dated 20 June 2019 with exhibits;
- Answer to Rule 7 Statement dated 23 August 2019 with exhibits;
- Respondent’s witness statement dated 9 March 2020 with exhibits;
- Various character references.

Preliminary Matters

Media applications for copy documents

4. Applications were made by two journalists for copies of the Rule 5 and Rule 7 Statements to be disclosed. It was said to be difficult to follow the case, particularly as it involved frequent references to figures and documents. The applications were stated to be made to ensure reporting was accurate. It was submitted that the legal community and the wider public had an interest in accurate reporting of such allegations of serious professional misconduct. The case was being heard in public and it was submitted that observers were entitled to know the charge and the particulars of the allegation to make sense of the hearing.
5. Mr Goodwin opposed the applications on behalf of the Respondent. It was open to any journalist or member of the public to attend the hearing and he submitted that the opening of the Applicant’s case had been sufficiently clear that it could be understood by those observing. He submitted that the open justice principle was satisfied by the hearing being conducted in public. He referred to the Tribunal’s Policy on the Supply of Documents from Tribunal Records to a Non-Party (“the Policy”) which stated there was no automatic right to access to documents referred to during public hearings. He further submitted that there was an ongoing commercial dispute involving the Respondent and that there was potential for material disclosed to have an impact on this. In the event the Tribunal granted the disclosure sought Mr Goodwin invited the Tribunal to anonymise clients and an associate solicitor with whom the Respondent had worked closely and to protect legally privileged and confidential material.

6. Mr Levey stated that the Applicant was neutral on the application. He submitted, however, that the starting point for the Tribunal under its policy would be disclosure and that the Applicant did not see a reason to depart from this. He agreed that the case was unusually dependent on figures and tables making comparisons between figures which he submitted made the arguments in favour of disclosure stronger than in an average case. Mr Levey stated that he was not aware of any civil or criminal proceedings which may be prejudiced by disclosure.
7. The Tribunal had regard to the Policy. The Tribunal accepted that the case was particularly focused on various comparisons between figures at different times and that it may be difficult to follow without access to a written summary document. The Tribunal also accepted that accurate reporting of the case was a legitimate concern of those making the application. The default starting position under the Policy was that disclosure would be made where reference had been made to documents during the public hearing. The Tribunal considered that the open justice principle would be furthered by accurate reporting and those who were observing being able to follow a data-heavy case. Given that the allegations related in large part to information supplied to the Applicant by Dentons, and Dentons was the party seemingly in commercial dispute with the Respondent, the Tribunal did not accept that any risk of prejudice to this dispute, which despite her having left the firm some three years previously had not crystallised into a civil claim, outweighed the interests of the open justice principle. The Rule 5 and Rule 7 Statements were drafted using initials in most cases such that the redactions necessary to protect client information or privileged or confidential information were minimal. The Tribunal accepted that references to the associate solicitor with whom the Respondent had worked closely should be redacted as should any sensitive personal information which was irrelevant to the allegation. Subject to these minor redactions, the Tribunal directed that copies of the Rule 5 and Rule 7 Statements should be provided as requested. The copy documents were duly provided by email on day 4 of the hearing.

Factual Background

8. The Respondent's legal specialism was telecommunications. The Respondent practised as an Associate at Hammonds LLP and subsequently as a member at Hammonds from 29 October 2007 to 29 April 2011.
9. She then practised at Taylor Wessing LLP ("TW") from the end of April 2011 to 30 September 2015. She was a fixed share partner at TW until 1 May 2015 and then a junior equity partner. She practised at Dentons LLP ("Dentons") between 15 October 2015 until she resigned on 22 September 2017. She was a full interest equity partner during her time at Dentons.
10. At the date of the hearing the Respondent was an equity partner at Hill Dickinson LLP ("HDL"). She was the head of Telecommunications within that firm's Business Service Group.

Witnesses

11. The written and oral evidence of 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 of all witnesses. 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. The following witnesses gave oral evidence:

- Marianne Robson, Director of Risk at TW;
- Andrew Pike, Compliance Officer for Legal Practice (“COLP”) and Partner at Squire Patton Boggs (UK) LLP (formerly Hammonds LLP);
- Andrew Cheung, General Counsel of Dentons UK and Middle East LLP;
- James Bisset, Head of Practice Management at Dentons UK and Middle East LLP;
- The Respondent.

Findings of Fact and Law

12. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondent’s right to a fair trial and to respect for her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
13. **Allegation 1.1: On or about 13-14 February 2015 the Respondent sent the FP schedule about her financial performance TW to JB of Red Law Recruitment for the purposes of forwarding on to Dentons, knowing that the information contained in the FP schedule was untrue or in the alternative ought to have known that the information contained in the FP schedule was untrue, in breach of all or alternatively any of Principles 2 and 6.**

The Applicant’s Case

- 13.1 In October 2014 the Respondent was introduced by JB of Red Law Recruitment to Dentons as a partner at TW who had a very strong ongoing ‘pipeline’ and was currently self-generating £1.5 million in fees. As part of Dentons’ recruitment process they required the Respondent to provide information about her historical financial performance so they could carry out an assessment of her track record and what they term “originations” (that is the billings for clients who have been introduced by the Respondent to their previous firm or for whom they are considered to be the main point of contact) and the likely portability of her clients.
- 13.2 Over the weekend of 13-14 February 2015 the Respondent provided to JB her historical financial information by e-mail which he forwarded on to Dentons on 16 February 2015. The e-mail included financial information relating to her billings at TW between 2011 and 2014. This information was provided by way of the FP schedule which broke down fees billed in the relevant financial years by individual client and individual matter. The FP schedule showed that the Respondent’s total billings were in excess of £2-3 million per financial year. Mr Levey, for the Applicant, submitted that the Applicant’s case was very simple and that this FP schedule was the critical document which underpinned all of the allegations.

- 13.3 The Respondent was appointed as a Partner at Dentons in October 2015 following a process described in more detail in relation to allegations 1.2 and 1.3.
- 13.4 The Respondent's financial performance at Dentons was said to have been very poor compared to her purported historical billings at TW. In November 2016 Dentons began a process by which to remove the Respondent as a full interest partner. Due to the large disparity between the historical billings allegedly claimed by the Respondent and her billings whilst at Dentons, and a concern that the Respondent had misrepresented her billings whilst at TW, Dentons requested that the Respondent provide documents and information to confirm the TW financial information figures that she had provided to Dentons.
- 13.5 When no information was received from the Respondent, Dentons approached TW on 16 June 2017 and requested information to verify (or otherwise) the information contained within the Respondent's FP schedule. TW refused to disclose the information sought voluntarily on the basis it was confidential however they did not oppose an application made by Dentons to the Court for disclosure.
- 13.6 TW collated information about the Respondent's billable hours and billings from their finance system, Aderant, and compared it with the information supplied by the Respondent to Dentons (a copy of which had been provided to TW). TW were sufficiently concerned with discrepancies in the information provided by the Respondent to Dentons that they reported her conduct to the Applicant in a letter dated 21 July 2017.
- 13.7 TW provided the Applicant with a table of both the billable hours provided to Dentons by the Respondent and the Respondent's billable hours extracted from Aderant. By way of example, TW's figures show that the Respondent billed 764.8 hours in 2011/12 whereas the Respondent provided Dentons with a figure of 2441.7 hours billed. In their letter to the Applicant, TW stated that they were unable to identify how the figures that the Respondent provided to Dentons might have been compiled. They also stated that the information as to billable time was available to all partners and fee-earners on the TW system, could be easily extracted and was regularly circulated. The evidence of Ms Robson was that the Respondent had access to TW's financial system Aderant and had billing information at her fingertips by way of monthly and quarterly billings figures and information prepared for her annual appraisals.
- 13.8 TW also extracted from Aderant the fees billed by the Respondent on matters on which she was the supervising partner in each of the three relevant financial years, which was the nearest approximation that they were able to provide to the information sought by Dentons. TW did not separately record figures where the client was introduced by the Respondent or where she would be considered the main point of client contact but did not do the work herself. Again, TW referred to it being immediately apparent that there were significant discrepancies between the fees provided to Dentons and the figures on the TW system. For example, in 2012/2013 the Respondent's billing figure provided to Dentons was £3,839,856, whereas the figure provided by TW was £979,907.39.
- 13.9 The TW figures showed that the Respondent did not bill more than £979,907.39 in any of the relevant three financial years, whereas the figures provided by the Respondent to Dentons included billings between £2-3 million in relation to each of them.

- 13.10 In their letter to the Applicant, TW highlighted some of the starkest discrepancies in the FP schedule. There was said to be only one client in the schedule, Client DRLS, where the fees actually earned by the Respondent at TW came close to the figures provided by the Respondent to Dentons.
- 13.11 TW disclosed the information to Dentons on the 14 August 2017. TW provided the Respondent's billings for the financial years 2011/12 to 2014/15 as client partner and supervising partner. This billing information was said to be in the financial information sections of the appraisal packs prepared for the Respondent's annual appraisals. TW also provided Dentons with a copy of the annotated FP schedule which included their comments as whether the Respondent was the client or supervising partner for a particular matter, whether she introduced the work to other parts of the firm and on the purported fees that she billed.
- 13.12 Dentons subsequently wrote to the Respondent's solicitors on 29 August 2017 informing them that it had appeared that the representations made by the Respondent about her financial performance were made deliberately and dishonestly in that she knew them to be false and were made to induce them to engage her as a full equity partner on favourable terms. Dentons reserved their right to rescind the partnership agreement. Dentons set out proposals to recover by way of compensation the monies that it had incurred in taking on the Respondent as a partner, less the monies she had earned for them. Dentons also invited the Respondent to respond to the allegations in their letter.
- 13.13 The Respondent resigned on 2 September 2017. Dentons reported the Respondent's conduct to the Applicant on 13 November 2017.
- 13.14 The Applicant's case was that the Respondent knew that her 'pipeline' document, in which she forecast that her income would range between £1.8 to £2.75 million in the first financial year, would need to be supported by strong historical billings at TW to establish a track record. It was alleged that the Respondent knew that her true billings at TW would not be sufficient to support the pipeline document and that accordingly in the FP schedule she fabricated matters for which she had purportedly acted for clients, fabricated billings on matters where there were no billings and in one case fabricated the client. Where the Respondent had actually billed a client on a particular matter, it was alleged that she had grossly exaggerated those fees.
- 13.15 The Rule 5 Statement set out "actual billings as originator" alongside "purported billings as originator" for the years 2011/12 to 2013/14. An extract from the table in the Rule 5 Statement is set out below:

<i>"Year</i>	<i>Actual billings as originator</i>	<i>Purported billings as originator</i>
<i>2011/12</i>	<i>£200,900</i>	<i>£2,561,632</i>
<i>2012/13</i>	<i>£924,800</i>	<i>£3,839,856</i>
<i>2013/14</i>	<i>£699,000</i>	<i>£2,469,280"</i>

- 13.16 The Respondent's total billings during her time at TW for the financial years 2011-2015 (£2,154,500) was said to be less than what she had claimed to have billed in each financial year in the FP schedule.

13.17 The majority (73 out of 78) of the entries on the FP schedule were alleged to be inaccurate, false or grossly exaggerated. The Applicant highlighted three examples in the Rule 5 Statement:

- The FP schedule showed that a total of £607,540 was billed for client LCC over a three-year period in respect of four matters. TW's records showed that a total of only £17,544 was billed for this client on one of the matters mentioned by the Respondent (the three other projects were not recorded on the TW systems).
- The FP schedule showed a total of £280,000 billed over a two-year period for client BO in respect of two matters. TW records showed that a total of only £3,860 was billed in 2013/14 in respect of one of the projects named by the Respondent (there being no fees billed to the client in 2012/13 and no record of the second project mentioned by the Respondent).
- The FP schedule showed a total of £156,000 was billed over a two-year period for client ACS in respect of two matters. The FP schedule also included a budget of £250,000 for a further project in the 2013/14 financial year section. TW records showed that only a total of £19,583 was billed for the client. TW was said to be unable to identify the matter with the budget of £250,000.

13.18 The FP schedule showed that a total of £512,569 was billed over five matters for Client MC in 2011/12. TW were unable to find the client on their systems. Companies House records showed that MC was placed into administration in 2010. There was no reference to MC in the financial sections of Respondent's annual partner appraisals which included all the clients for whom she had worked and billed. Relying on documents exhibited by Mr Pike, COLP of Squire Patton Boggs (UK) LLP (formerly Hammonds), it was stated that the Respondent had acted for MC whilst at Hammonds, billing a total of £116,463 in 2008 and 2009. Despite this, in the FP schedule, the Respondent was alleged to have represented that she had billed MC over half a million pounds in the 2011/12 financial year whilst at TW.

13.19 In a letter dated 9 March 2018 the Applicant asked the Respondent to explain how she arrived at the figures in the FP schedule. In reply made through her solicitor, Mr Goodwin, the Respondent was said to be unable to do so. The response made reference to the Respondent's mental state at the time, the passage of time, the FP schedule taking account of sums prior to her time at TW, the figures taking account of time worked but which could not be billed due to fixed fee arrangements negotiated by TW and differences in the way originations were recorded by TW and Dentons.

13.20 Mr Levey submitted that any purported explanation based on discounts or fixed fees meaning that significant time had been unbilled did not withstand scrutiny. The FP schedule contained five bullet points at the top which included:

- "the amounts billed were purely generated by [the Respondent] and [an associate solicitor]";
- "Fees are billed on matters on a Monthly Basis and paid within 30 days"; and
- "On 2013/2014 year – all fees were paid by 15 July 2014".

A further bullet point stated that the fees were a mixture of public sector rates, fixed fees, value discounts and fee uplifts on risk sharing arrangements. The Applicant's case was that the figures included in the FP schedule accordingly already took into account such discounts.

- 13.21 Mr Levey submitted that whilst the burden of proof was on the Applicant, and the criminal standard of proof applied, in the face of such overwhelming documentary evidence it was not enough for the Respondent to simply state that she genuinely believed the figures she put forward were accurate. He submitted that it did not amount to a reversal of the burden of proof for the Respondent to be expected to provide a coherent explanation of why she genuinely believed the figures were accurate. It was submitted she had failed to provide such an explanation and that she did not believe the figures she had put forward were genuine.
- 13.22 In her oral evidence the Respondent stated that various named partners at Dentons were aware of the basis on which the figures she supplied in the FP schedule (and also the proposal form) were generated. Her evidence was that she had gone through the figures with them "at length". She stated that the figures represented what she would be able to bill if properly resourced and described the billing figures in the FP schedule as a "modelling exercise" focused on how she could expand the work in her area of expertise. The figures were not what she had actually billed and the Respondent's evidence was that this was understood by the various partners she named at Dentons. Mr Levey submitted that this explanation was not credible and was not put forward in the Respondent's Answer to the allegations and was being raised for the first time in oral evidence (something the Respondent did not accept, as set out below under the summary of her case).
- 13.23 The Respondent's oral evidence was also that the figures quoted above relating to specific clients was "illustrative of the effort" she had made and an indication of what could have been billed had she and her associate solicitor been properly supported and "allowed to work on the project as we should".
- 13.24 Mr Levey asked why these explanations had not been put to Mr Bisset, Head of Practice Management at Dentons when he gave oral evidence. Mr Bisset's evidence was that "the historic billing figures" at TW from the FP schedule were included in the proposal form. In his witness statement Mr Bisset had stated:
- "The historical billing figures that [the Respondent] provided were extremely important, since the attraction for Dentons in hiring [her] was that we understood she had a significant portable practice with a number of repeat clients."*
- 13.25 In cross examination the Respondent accepted that Mr Bisset's understanding of the figures she had provided was inconsistent with the explanation she provided during her oral evidence. Mr Levey submitted that the Respondent's explanation that the figures were "wished for" billings was untruthful and lacked credibility when it was plain that Dentons required accurate historical billing information to inform their partner recruitment process.

Breaches of the Principles

- 13.26 The Respondent was alleged never to have come close to the billing figures represented in the FP schedule. It was alleged that the Respondent would have known that the information she supplied was grossly exaggerated and false.
- 13.27 It was submitted that the Tribunal could properly carry out a comparative analysis of the TW and Dentons billings figures despite the differences in the way they recorded. Both figures were said to broadly represent the work that the Respondent bought into the firm and their contribution to the firm. To the extent that there was a difference it was submitted that it could not explain the huge variation in the figures supplied by the Respondent to Dentons for her billings and TW's figures for the same.
- 13.28 In knowingly providing untrue information to JB to forward on to Dentons, it was alleged that the Respondent lacked integrity in breach of Principle 2 and acted in a way that undermined public confidence in her and the provision of legal services in breach of Principle 6.

Dishonesty alleged

- 13.29 It was alleged that the Respondent's actions were dishonest in accordance with the test for dishonesty laid down in Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67:

“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”.

- 13.30 In relation to the first limb of the Ivey test, the Respondent's actual knowledge or belief, it was alleged that:
- The Respondent knew that JB would trust her to complete the FP Schedule truthfully and in good faith.
 - She knew that Dentons would rely upon the FP Schedule for the purposes of the process of recruiting her as a partner.
 - She knew her true level of billings at TW.
 - She knew that the figures that she provided in the FP Schedule which she purportedly billed each client was grossly exaggerated or false.

- She knew that she did not undertake particular matters for clients as claimed on the FP schedule.
- She knew that she did not act for client MC at TW but still referred to having billed them over half a million pounds in 2011/12 financial year.
- She knew that she would have to represent her historical billings at TW in the millions in order to support her pipeline document.
- She knew that by exaggerating the level of fees she billed she stood a better chance of Dentons recruiting her as a partner.
- To date the Respondent had been unable to explain how she calculated the level of fees that she provided to Dentons.

13.31 Applying the second limb of the Ivey test, it was submitted that the Respondent acted dishonestly according to the standards of ordinary decent people by providing grossly exaggerated and false information as set out above.

The Respondent's Case

13.32 The allegation was denied.

13.33 Mr Goodwin submitted that the case was essentially about a commercial dispute between Dentons and the Respondent. He described the dispute as having lasted five years and to be continuing. He referred the Tribunal to an exchange of letters between the Respondent's solicitors and Dentons, beginning in November 2016. The Respondent had rejected the suggestion of a consultancy arrangement with Dentons rather than remaining as a partner, something Mr Goodwin submitted was consistent with the Respondent's genuine belief that there was no reason why she should not remain a partner.

13.34 The Respondent's case was that Dentons were seeking, as demonstrated in their correspondence, to force her out of her position. Mr Goodwin described the Respondent's efforts to obtain documents including internal memoranda of meetings which he stated was prompted by the tone of Dentons' correspondence. Twenty-one folders of documents were disclosed to the Respondent. It was submitted that senior partners BR and SS had decided by November 2016 they wished to terminate the Respondent's position, BR going as far as to state that he would resign if the board did not do so based on the Respondent's "abject performance" as he "could no longer work with a board such as that".

13.35 It was further submitted, by reference to internal emails to which the Tribunal; was referred, that there were influential individuals within Dentons who had concerns about her being taken on as a partner in the first place.

13.36 The significance of the above was said to be that this all happened before Dentons sought historical billing information from TW. Having failed to negotiate a resolution and achieve their objective, Dentons set about looking for an alternative way to bring about the Respondent's exit from the firm. An example given was close scrutiny of a

personal flight which the Respondent had taken (and paid for) in the hope, it was submitted, of finding reasons to discredit the Respondent. In correspondence the Respondent's solicitors had described Dentons' approach as a "witch hunt". The Respondent's case was that having been unable to lawfully achieve a forced (or managed) exit, Dentons built a new case based on what was described as circumstantial evidence.

13.37 Mr Goodwin referred the Tribunal to a letter sent by Dentons to the Respondent's solicitors in August 2017 in which the possibility of referring the Respondent to the Applicant was raised. In reply it was submitted that making a threat to report a solicitor to the Applicant to obtain a commercial advantage was itself an action which may trigger reporting obligations. Dentons did not make their report to the Applicant until November 2017 and it was submitted that this was done in order to obtain a commercial advantage.

13.38 The Respondent described not being supported in the way she had anticipated in her role with Dentons. The Tribunal was referred to an email she had sent to a recruitment consultant in March 2016, within five months of taking up her position, in which she stated that her experience was not as painted or represented. Mr Cheung, in his evidence, had agreed that a "bedding-in" period for a new partner may be up to a year, and it was submitted that the Respondent was not supported in this way and that, on the contrary, within months of joining there were indications that Dentons had concerns about the Respondent's financial performance. Mr Goodwin highlighted that on the day that BR had sent a memo recommending the termination of the Respondent's position, 28 November 2018, he commented to colleagues that "what [the Respondent] calls pipeline but others would usually call possible opportunity".

13.39 Mr Goodwin referred the Tribunal to the exchange of correspondence between Dentons and TW. Ms Robson, to whom the matter was passed at TW, could have been under no misapprehension that Dentons sought documentary evidence to support the termination of the Respondent's position. Mr Goodwin submitted that the detail and qualifications of Ms Robson's subsequent notification to the Applicant were significant. She made reference to "apparent" discrepancies with the information on the TW system and had noted that the Respondent had not had the opportunity to comment on the matter as TW had not (at Dentons' behest) notified the Respondent of the issue. Ms Robson had also stated that:

"it is not a simple exercise to provide financial information for the 'originations' using the definition that Dentons have provided because [TW] does not record information in that particular manner."

13.40 Ms Robson stated that TW had provided the "nearest approximation" of the information sought. In her response to Dentons Ms Robson had stated that there were difficulties in collating the requested information after the event. In her oral evidence Ms Robson had acknowledged that she could not explain what her earlier comment to Dentons about figures being updated after a partner had left meant. Ms Robson had not worked with the Respondent and had based her account on financial reports obtained from the system. Ms Robson had also stated that she did not keep the report containing the underlying figures from which her summary provided to the Applicant and to Dentons was based, something Mr Goodwin described as "staggering". The table of figures

which Ms Robson had produced itself contained a clear error on its face, referring to figures for the year 2015/2015. Mr Goodwin queried if the Tribunal could be sure that further errors had not been made. Taken together, Mr Goodwin submitted that the Tribunal could not be sure, which was the requisite standard of proof, of the TW figures and could not be sure of the alleged breaches based on those figures.

- 13.41 In the Answer submitted on her behalf the Respondent had stated that the FP schedule was prepared “based on her recollection of the historical performance”. She stated that she did not check historical data (on the basis that this was commercially sensitive to TW). She also stated in her Answer that the FP schedule included historical billings from when the Respondent was at Hammonds prior to her time at TW. Nevertheless, she stated in the Answer that:

“The information provided by the Respondent [...] in the FP schedule represented hours and billing figures based upon the actual hours worked, and informed from her own knowledge and belief, genuinely held at the time she prepared the FP schedule in February 2015.”

- 13.42 As set out above under the Applicant’s case, the Respondent’s oral evidence was that prior to her appointment as a partner at Dentons she had clearly explained the basis on which the figures in the FP schedule were calculated. The Respondent stated that she had explained the methodology to various partners prior to submitting the FP Schedule. This was why she had sought to address the partnership appointment committee prior to leaving the firm and wished those individuals she had named to be present as they fully understood the basis on which the figures included within the FP schedule relating to historical billings and hours were compiled and put forward.
- 13.43 The Respondent stated that Dentons’ focus was on the scope to expand and scale up the work she undertook with the associate solicitor with whom she worked closely. The Respondent’s oral evidence during the hearing was that the FP schedule represented the figures which could be achieved if supported and resourced sufficiently. She also described in her oral evidence that very significant amounts of time were not recorded for various reasons and due to fixed-fees which had been negotiated and other commercial pressures very significant amounts of work were not billed. The Respondent stated that her performance at TW was reflected in their award to her of a £70,000 bonus linked to her performance.
- 13.44 In her evidence, the Respondent described herself as feeling “crushed” by some of the contents of the documents she obtained from Dentons under her subject-access request and, in particular by the view of her held by various partners within the firm which was revealed by the email correspondence disclosed. The impact of these events was one reason she did not seek to investigate the figures put forward by TW at the time (although she consistently denied any fraud or misrepresentation).
- 13.45 The Respondent denied that she had provided an entirely new version of events in her oral evidence. She stated that she had also explained in her written witness statement that the figures in the FP schedule were not simply a record of historical billings and time recorded. In her written witness statement the Respondent had stated:

“My overriding and absolute belief, is that I worked in collaboration with Osborne Clarke and subsequently Dentons in providing a set of illustrative figures for the relevant recruitment committees. I did not undertake this exercise with any intention to mislead. The exercises undertaken with the two firms were purely to understand how a practice of a partner and senior associate could be transported, resourced more appropriately and therefore and more importantly increase the profit of the new firm. Both firms were more interested in growth than my practice staying the same. The firms wanted to understand how to leverage and increase profits.”

- 13.46 Mr Goodwin further submitted that he had raised the issue of problems with the figures provided by TW some three years before the hearing. He submitted that the Applicant had never addressed the unreliability of the underlying figures. Mr Goodwin rejected the submission from Mr Levey that the only doubt raised on the Respondent’s behalf was in relation to ‘originations’. His contention was that the Respondent had considered the figures relating to historical billing to be similarly unreliable and that this point had been consistently made.
- 13.47 The Respondent in her oral evidence had stated that she had used a nickname for client MC when recording the work she had carried out at risk (without initial charge) for directors of the firm which had gone into administration. She had advanced the same case in her written witness statement. Mr Goodwin submitted again that it was open to the Applicant to have investigated this explanation but instead the allegation had been pursued on the basis of the work and time involved being a fabrication.
- 13.48 It was submitted to be significant that no evidence had been called by the Applicant from those named individuals at Dentons who had been involved in her recruitment and to whom, on the Respondent’s evidence, she had explained the basis of the figures she had provided. There was submitted to have been no evidence called to challenge the Respondent’s account. Similarly, no one she had worked with at TW who would be able to give informed evidence about her performance was called. The Respondent’s evidence was that she was unable to record time remotely whilst at TW which cast doubt on the figures put forward by Ms Robson. Mr Goodwin submitted that the Respondent could and should have obtained such evidence and that without it the Tribunal could not be sure of the case against the Respondent as her explanation could not be discounted. The Applicant had had the Respondent’s witness statement for over a year by the date of the final hearing and evidence from those with first-hand knowledge could have been obtained.
- 13.49 Mr Goodwin invited the Tribunal to place little weight on the evidence of the Applicant’s live witnesses, and stated that Mr Cheung, Ms Robson and Mr Pike had not worked with the Respondent. He invited the Tribunal to place no weight at all on the statement of BR, UK Managing Partner of Dentons at the time of their application to Court to obtain disclosure of documents relating to the Respondent’s financial performance, which was appended to Mr Cheung’s statement. This was on the basis that the statement had not been produced for the Tribunal proceedings and BR was not available for cross-examination.
- 13.50 Mr Goodwin invited the Tribunal to consider a psychiatric medical report relating to the Respondent which had been prepared in April 2018.

Breaches of the Principles

- 13.51 The alleged breaches of the Principles were denied for the reasons summarised above. The illustrative basis on which the FP schedule was put forward was clearly explained to Dentons. The figures relied upon by the Applicant were themselves unreliable and the Applicant had failed to produce evidence from those who had been involved in the Respondent's recruitment or had worked with her.
- 13.52 Mr Goodwin referred the Tribunal to the case of SRA v Waddingham [2012] EWHC 1519 (Admin). The Respondent was entitled to the benefit of any doubt. It was not enough if the Tribunal considered that the Respondent probably committed the alleged acts. For the reasons set out above, Mr Goodwin submitted the Applicant had not produced compelling evidence to substantiate the extremely serious allegations which had been made.

Response to allegation of dishonesty

- 13.53 Mr Goodwin referred the Tribunal to numerous character references presented on the Respondent's behalf. Whilst they did not state on their face that the authors were aware of the Tribunal proceedings, Mr Goodwin confirmed this to be the case having taken instructions on the point. Mr Goodwin submitted that such references, which spoke of the Respondent's integrity, professionalism and honesty, and the evidently high regard in which she was held by many clients, may be taken into account prior to the Tribunal's determination of dishonesty. He submitted that collectively they were compelling. She had an otherwise exemplary disciplinary history since qualifying in 1995. There was no propensity towards dishonest conduct on the Respondent's part and this was relevant when the Tribunal considered the inherent implausibility of the allegations which involved the alleged fabrication of information which was easy to check.
- 13.54 Mr Goodwin agreed that the Ivey two-stage dishonesty test was the appropriate one and stressed that the essential element was whether the Respondent's belief as to the facts was genuine, not whether it was reasonable. The Respondent had given oral evidence for close to a day and a half and her evidence had been consistent with what she had said throughout. Whilst she had been upset at times, her account had been reasoned and calm. Mr Goodwin invited the Tribunal to accept the Respondent's evidence as a truthful account of her honest belief at the relevant times. She had believed in the illustrative figures she had produced and the forward-looking basis on which they were supplied to Dentons.

The Tribunal's Decision

- 13.55 The Tribunal noted that several of the Respondent's clients produced glowing testimonials and appeared to rate her extremely highly. The Tribunal accepted there was no evidence of any propensity towards dishonest conduct on the Respondent's part throughout her long unblemished career. However, the Tribunal found that she had misrepresented the figures she put forward to Dentons in the FP schedule.
- 13.56 Despite the Respondent's Answer stating that she had genuinely believed the information she provided in the FP schedule "*represented hours and billing figures based upon the actual hours worked, and informed from her own knowledge and belief,*

genuinely held at the time” the focus of her oral evidence was that in fact those who recruited her at Dentons were well aware that the information was “illustrative”. The thrust of the Respondent’s oral evidence was that it was understood by Dentons that the figures illustrated what could be achieved if the Respondent and her colleague were properly supported. The Respondent had named various individuals who she stated were aware of this and no evidence was adduced by the Applicant from those so named.

- 13.57 The heading of the first FP schedule was “Financial Information 2011/2012” and bullet points were included on the first page stating:

“The amounts billed were purely generated by TS & [colleague]. They do not include revenue generated via Client / Panel Pitches in respect of TW Clients where TS & [colleague] have made a significant contribution.

Fees are a mixture of Public Sector Fee rates / Fixed Fees / Volume discounts / Fee uplift on risk sharing arrangements

Fees indicated here are only those fees billed by TS / [colleague] and no other TW team [...]

Fees are billed on matters on a Monthly Basis and paid within 30 days

On 2013/2014 year – all fees were paid by 15 July 2014”.

- 13.58 The Tribunal considered that the Respondent’s account of the contents of the FP schedule was at odds with the wording on its face. The wording reproduced above unambiguously indicated that the fees indicated were sums which had been billed and paid by clients. The Respondent’s oral evidence was that these bullet points responded to specific questions which had been posed by those she had met at Dentons. They were not intended to apply to the figures included in the schedule or indicate that the figures were accurate billed figures.

- 13.59 The Respondent had also stated in oral evidence, and in her Answer, that she did not check the billing figures on the TW system before compiling the FP schedule. The Tribunal noted that the schedule included some very detailed figures. By way of examples drawn from only the 2011/12 figures the following figures were listed under a column marked “fees”:

- £171,578 for client CM
- £150,789 for a specific project for client DR
- £137,589 for a specific project for client MC
- £146,980 for a separate project for client MC
- £36,456 for a project for client MM

- 13.60 The Tribunal accepted the submission of Mr Levey that it was difficult to reconcile such specificity either with figures composed from memory in the genuine belief they were accurate or illustrative figures which were indicative of what could be achieved if the Respondent were properly supported. In any event, as stated above, on the face of the schedule the clear implication was that the fees indicated were actual billings.

- 13.61 During cross-examination about the figures in the FP schedule, the Respondent was asked about the figures that she had provided to Mr Bisset. He had received the FP schedule and his evidence was that based on this, and the pipeline document, and discussions with the Respondent, he had drawn up financial projections. In his evidence Mr Bisset stressed that “The historical billing figures that Ms Sheehan provided were extremely important.” When it was put to the Respondent that Mr Bisset clearly understood the figures she had put forward to be accurate historical billing information rather than illustrative figures indicating potential billings she had said “I cannot argue with that”. The Tribunal found Mr Bisset to be a credible witness who gave straightforward evidence. The Tribunal accepted that he had considered the figures supplied by the Respondent in the FP schedule were accurate indications of historic billings.
- 13.62 The Tribunal accepted the annotated version of the FP Schedule produced by TW and appended to the witness statement of Ms Robson. Ms Robson gave evidence about the methodology she adopted when Dentons sought historic billing and ‘originations’ figures. The figures supplied by Ms Robson to Dentons, and to the Applicant in her report, were derived from TW’s financial system Aderant. The Tribunal accepted Ms Robson’s evidence and considered there was no reason to doubt the figures that she had put forward. Indeed, the thrust of the case the Respondent advanced in her evidence was not that TW’s figures were inaccurate but that Dentons had understood that her own figures were illustrative of what could have been achieved rather than a record of what had, in fact, been achieved.
- 13.63 In contrast to the main thrust of the Respondent’s evidence, Mr Goodwin cross-examined Ms Robson and made submissions about the possibility of inaccuracies in the TW historical billing figures that Ms Robson had provided. Ms Robson had acknowledged there was scope for some originations to be omitted from the figures she provided, on the basis that TW did not record them in the same way as Dentons. Ms Robson’s evidence was that the category of potential billings not captured by the exercise she had run was small, she estimated 9.5 out of 10 instances of billings would be picked up by the TW methodology. Those which would not be caught would be where an individual had brought a client to the firm but was neither the relationship manager nor completed any work for that client. Ms Robson considered this to be a very small category. Ms Robson acknowledged during cross-examination that she had also stated that verifying the fees billed by the Respondent as set out in the FP schedule was “difficult” in her letter to Dentons. In cross-examination she stated that it was difficult because the information she sought to verify was not on the Aderant financial reports rather than because on any inherent difficulty with the task or incompatibility of systems.
- 13.64 Ms Robson had stated that she did not consider that the omission of the financial reports on which she had based her summary was significant. The Tribunal agreed and noted that Ms Robson stated when giving evidence that the same reports could be run again if required up to and including on the day when she gave evidence to the Tribunal. The Tribunal noted that there may be some margin of error in the figures on account of the difference in how originations were recorded, but considered that this did not begin to approach the level required for any sensible assertion that the actual figures put forward by the Respondent could have been a genuine attempt to report the actual billed figures. The Tribunal accepted the submission made by Mr Levey that the figures in the FP

schedule bore no resemblance to the figures which Ms Robson stated, and the Tribunal accepted, had been billed by the Respondent whilst at TW. In any event, the Respondent's evidence was that the FP schedule was not put forward as a record of actual historical billings.

- 13.65 Ms Robson was asked whether the Respondent could have completed many more hours than she had recorded on TW's system. Her reply was that this would be "mad" and that she had never heard of anyone doing this. The Tribunal considered that even if this had been the case, the unrecorded time plainly would not have been billed and so if the figures in the FP schedule were put forward as a record of actual billings, then the fact there was additional unrecorded and unbilled time was not relevant to the allegation. Ms Robson acknowledged during cross-examination that she could not recall what her comment to Dentons that financial information was updated after partner's had left the firm meant. Her evidence was that comprehensive and reliable information about what was recorded on the TS system, and what information would have been available to the Respondent, had been provided.
- 13.66 During his live evidence Mr Cheung agreed that a new partner would generally have up to a year to 'bed-in' but stated that the Respondent's financial performance was "so far short of the expected parameters" that it was a concern long before this.
- 13.67 The burden of proof was on the Applicant, and the Tribunal reminded itself that the Respondent was not required to prove anything. The Tribunal carefully assessed all of the evidence and submissions put forward, recognising that the Respondent was entitled to the benefit of any doubt wherever it arose.
- 13.68 The Tribunal did not consider the Respondent to be a credible or persuasive witness. She had said in oral evidence that she "did not recall" how she came to ascribe a value of £220,000 to work she had completed for client IL on one project when the financial system at TW showed she had billed £3,837 to this client. This was just one of numerous examples of where the figure in her FP schedule under "fees" appeared to bear no relation to the work she had billed when at TW. The Respondent's evidence on how she arrived at her purported illustrative valuations was vague and hesitant.
- 13.69 The Tribunal found the Respondent's account, given during cross-examination, of how she came to value work for one client, DR, to be bizarre and not credible. Her FP schedule had recorded £571,000 for this client, whilst her actual recorded figure on the TW financial system was £226,000. The Respondent's evidence was that the TW system omitted a very significant amount of work which had been completed. She described working seven days a week, sometimes up to twenty hours per day, and stated that it was understood at TW that this unbillable time would not be recorded. She described spending 75% of her time on work for DR at this time in 2013/14. On her own account the FP schedule valued this work at £571,000 and she had described spending around 75% of her time on this work. The Tribunal found her explanation of how the remaining 25% of her time could be valued at around £1.6 million, she said simply that the other work was charged at higher rates, to be highly implausible and not capable of being believed.

- 13.70 The Respondent maintained throughout her evidence that she had explained the basis of the figures – “illustrative of effort” – to various named individuals at Dentons. The Respondent accepted during cross-examination that her solicitors who had been in correspondence with Dentons throughout the commercial dispute had never put forward this account, that the figures had been misunderstood and were in fact illustrative or “wished for” figures. She said that for various personal reasons she had been unable to address various things at the time. There was nothing whatsoever to corroborate this account.
- 13.71 The Tribunal had uppermost in its mind that the Respondent did not have to prove anything and that she contended those to whom she had explained the basis of the figures had not been called by the Applicant and no evidence was adduced from them. However, having reviewed the available material in some detail, including all of the internal emails between those at Dentons who were clearly becoming concerned at the Respondent’s performance, there was no hint of corroboration for the Respondent’s account. Nor was there any element of support in the emails from the Respondent sent to those at Dentons with whom she was corresponding about her performance. Nor, as stated above, had this point been made on her behalf when her solicitors were corresponding about her dispute with Dentons. Nor was there any indication of this basis in the Respondent’s mail to JB during the recruitment exercise. As also stated above there was no indication of the FP schedule itself that the figures were illustrative; the Tribunal considered the clear indication was to the contrary. The Respondent’s account was hesitant, vague and unconvincing and she failed to answer many questions directly. The contrast in her evidence when she was speaking fluently and authoritatively about technical or client matters was marked. On these matters she spoke with conviction and expressed herself clearly, succinctly and directly to the point. The Tribunal rejected the Respondent’s account that she had made clear that the fees indicated in the FP schedule were intended to be illustrative.
- 13.72 The Respondent had put forward the figures in the FP schedule. The Tribunal found that she must have known that the “fees” figures would be regarded as an accurate statement of fees she had charged. The Tribunal rejected the submission that any margin of error caused by omitted ‘originations’ could plausibly account for the vast difference between the stated fees in the FP schedule and the actual work billed in the relevant years. The Tribunal had no doubt that the fee figures in the FP schedule were inaccurate nor that the Respondent had known that they would be regarded as an accurate statement of her fees by those at Dentons to whom they were provided. The Tribunal considered the evidence that they were so regarded to be overwhelming.

Breaches of the Principles

- 13.73 The Tribunal had regard to the test for conduct lacking integrity set out in Wingate v SRA [2018] EWCA Civ 366 in which it was said that integrity connotes adherence to the ethical standards of one’s own profession. The Tribunal had found that the Respondent knew that fees indicated on the FP schedule would be regarded as an accurate statement of her billing history at TW and be relied upon by Dentons in their recruitment process. She also knew that the figures were not remotely accurate. The Tribunal had no doubt that putting forward the FP schedule in these circumstances was conduct falling well below the minimum ethical standards of the profession. The alleged breach of Principle 2 had accordingly been proved beyond reasonable doubt.

13.74 The Tribunal also had no doubt that such conduct would undermine public trust in the Respondent and the provision of legal services. The alleged breach of Principle 6 had accordingly also been proved beyond reasonable doubt.

The Tribunal's decision on the allegation of dishonesty

13.75 The Tribunal accepted the summary of the test for dishonesty provided by the parties. When considering the allegation of dishonesty, the Tribunal applied the test in Ivey. Accordingly, the Tribunal adopted the following approach:

- firstly, the Tribunal established the actual state of the Respondent's knowledge or belief as to the facts, noting that the belief did not have to be reasonable, merely that it had to be genuinely held;
- secondly, once that was established, the Tribunal then considered whether this conduct would be thought to have been dishonest by the standards of ordinary decent people.

13.76 As to the state of the Respondent's knowledge, the Tribunal had found that the Respondent had known that the figures contained within the FP schedule were not accurate historic billing figures. The Tribunal had found that she knew they were represented as such. The Tribunal also found that she must have known that Dentons would not engage her in the absence of such representations. The Tribunal accepted the submission that the Respondent was entitled to the benefit of any doubt that existed. However, the Tribunal had none. Once the above findings as to her knowledge and belief as to the facts had been made the Tribunal was sure that ordinary decent people would regard her conduct as dishonest. The aggravating allegation of dishonesty was accordingly proved beyond reasonable doubt.

14. **Allegation 1.2: On 28 April 2015 the Respondent approved a proposal form which was submitted to the partnership admission committee of Dentons which included information that she had provided relating to her billable hours and fees generated whilst she was a partner at TW, knowing that the information she had provided was untrue or in the alternative ought to have known that the information she had provided was untrue, in breach of all or any of Principles 2 and 6.**

Allegation 1.3: On 28 April 2015 she signed a proposal form for submission to the partnership admission committee of Dentons in which she confirmed the following *"The information supplied in this document is true and accurate as at the date supplied and is supplied in good faith. I have made all the appropriate disclosures in relation to my candidacy in this form. I understand that Dentons will rely on the information in this form."*, when she knew that the information supplied in the document was not true or accurate or in the alternative should have known that the information supplied in the document was not true or accurate, in breach of all or alternatively any of Principles 2 and 6.

The Applicant's Case

14.1 Allegations 1.2 and 1.3 both related to the proposal form submitted to Dentons are summarised together. Much of the Applicant's case in relation to allegation 1.1 was

also relevant to these two allegations as the figures from the FP Schedule were alleged to have largely been incorporated into the proposal form.

- 14.2 The Respondent was required to prepare, together with James Bisset, then a Practice Manager for Dentons' technology, media and telecom ("TMT") group, a proposal to the partnership admissions committee, a sub-committee of the Board. The proposal form contained, amongst other things, a prospective candidate's financial information relating to their previous firm and projections as to likely originations. The Respondent finalised and approved parts 2 to 4 of the proposal form (which included billings and billable hours) for submission on 28 April 2015 by email to James Bisset.
- 14.3 The proposal form also contained the Respondent's financial projections for the coming financial year based on her existing practice. The Respondent projected between £1.8 to £2.75 million. This was mainly based upon her historical billings at TW and her pipeline document, an updated version of which she provided to Dentons on 19 April 2015.
- 14.4 On 28 April 2015 the Respondent signed a candidate confirmation declaration on the proposal form. She confirmed the following:

"The information supplied in this document is true and accurate as at the date supplied and is supplied in good faith., I have made all appropriate disclosures in relation to my candidacy form. I understand that Dentons will rely on this information in this form."

- 14.5 The Respondent was also alleged to have provided exaggerated and false information relating to her billable hours in the partnership document. The Rule 5 Statement contained a table setting out the billable hours taken from the Respondent's partnership proposal form. An extract from this table is set out below:

<i>"Year</i>	<i>Actual hours</i>	<i>Purported hours</i>
<i>2011/12</i>	<i>764.80</i>	<i>2441.70</i>
<i>2012/13</i>	<i>1890.10</i>	<i>2690.90</i>
<i>2013/14</i>	<i>1141.70</i>	<i>2637.20</i>
<i>2014/15</i>	<i>1019.80</i>	<i>2452.70"</i>

- 14.6 The Respondent represented her billable hours target as 1250 per annum and according to the figures she provided to Dentons, she billed well in excess of those. However, as reflected in the table above it was alleged that the Respondent's actual billable hours were considerably less. The Applicant's case was based on a table provided by TW setting out a breakdown of the Respondent's time recording figures whilst at TW.
- 14.7 The Respondent was alleged to have provided untrue information relating to her total originations, largely in line with what she had provided in her FP schedule. She provided the following figures in the partnership proposal form:

- 2011/12 - £2,563,000
- 2012/13 - £3,840,00
- 2013/14 - £2,219,000
- 2014/15 - £1,200.000

- 14.8 As stated in relation to allegation 1.1, the Respondent's total billings during her time at TW for the financial years 2011-2015 (£2,154,500) was said to be less than what she had claimed to have billed in each financial year 2011/12 to 2014/15 in the FP schedule. The same was said to be the case in relation to the figures incorporated into the partnership proposal form.
- 14.9 The proposal form contained a section entitled "notes for completion" containing an explanation of how Dentons measured financial performance and an invitation to complete the table relating to billable hours and to explain how the candidate's current firm measures financial performance, if different to Dentons. There was no explanation provided by the Respondent that TW measured performance in any different way to Dentons.
- 14.10 The Applicant's case was that despite the signed confirmation the figures the Respondent had provided were not accurate or true in light of her actual billings at TW between the financial years 2011/12 and 2014/15.
- 14.11 Mr Levey referred the Tribunal to a section of the proposal form headed "Performance Information – Time Recording". He noted that the billable hours figures included within the table were stated very accurately, to 0.1 of an hour (reflecting the precise six-minute billable unit). Mr Levey submitted that the quoted figures were "unbelievably precise" and could only have come from the Respondent. He submitted that in this context her explanation that she had produced the figures from memory made no sense. He also submitted that the precision undermined the suggestion that they were "illustrative" figures prepared on a forward looking basis.
- 14.12 The partnership proposal form also contained a table setting out a breakdown of the Respondent's billing in line with the total origination figures that she provided. It was submitted that the entries appeared to be lifted from the Respondent's FP schedule, including client MC (the client placed in liquidation in 2010, as set out above). It was submitted to be clear from the "notes for completion" on the form that the section would have been completed by the Respondent and the sponsor working together. It was described as the "heart" of the proposal.
- 14.13 The partnership proposal form also included a section on candidate experience. The Respondent represented the matters set out in that section to be a representative cross-section illustrating her experience in a number of key areas within the last three years. She included within that section details of the work she had done for client MC, although she had not done any work for them for some 6 years as set out under allegation 1.1.

Breaches of the Principles

- 14.14 It was alleged that the Respondent knowingly provided untrue information to Dentons in the partnership proposal form about her billable hours and fees generated whilst at TW. It was further alleged that this was in order to secure a partnership on lucrative terms. The Respondent's actual billable hours were described as being only a fraction of what she had represented them to be to be.

- 14.15 It was submitted that even if the Respondent had included hours which could not be billed in the proposal form because of fixed fee arrangements with clients, based on the TW figures the Respondent's combined non-billable and billable hours at TW would have fallen short of the figures that she provided for billable hours to Dentons. It was submitted that the Respondent again provided exaggerated and false figures about her fees.
- 14.16 The Applicant alleged that the Respondent confirmed that she had given truthful and accurate information when she had not. It was further alleged that it would have been an easy exercise for her to have obtained accurate information about her billings, both as to hours and fees. The Respondent was again alleged to have provided exaggerated and false information about her billings on individual client matters within the proposal form and in particular falsely represented that she had worked for client MC in the last three years.
- 14.17 It was alleged that the Respondent thereby lacked integrity in breach of Principle 2 and her conduct undermined public confidence in her and in the delivery of legal services in breach of Principle 6.

Dishonesty alleged

- 14.18 The Applicant relied upon the Ivey test described in relation to allegation 1.1 above. As to the first limb of the test, the Respondent's actual knowledge or belief, it was alleged that:
- She knew that Dentons' partnership appointment committee would trust her to complete the proposal truthfully and in good faith.
 - She knew that the Partnership Appointment Committee would rely upon the information contained within the proposal form in deciding whether she should be admitted to partnership.
 - She knew the true level of her billable hours and that she had only achieved her billable hours target in one financial year.
 - She grossly exaggerated her billable hours in the proposal form to show that she achieved her billable hours in each financial year whilst at TW.
 - She did so in order to improve her prospects of securing a lucrative partnership at Dentons.
 - To date the Respondent had been unable to explain how she calculated her billable hours figures provided to Dentons.
 - She knew that her confirmation that she had provided in the proposal form that she had provided truthful and accurate information was not true as she knew the correct level of billings had been grossly misrepresented and that she had not "*made appropriate disclosures in relation to my candidacy form*" as required.
 - The Respondent knew that the historical billing figures in the proposal form were grossly exaggerated or false.
 - The Respondent knew that she had not undertaken any work for client MC whilst at TW, but represented in the partnership proposal form that she had done so within the last three years and provided a narrative of the work undertaken.

- 14.19 Applying the second limb of the Ivey test, it was submitted that the Respondent acted dishonestly according to the standards of ordinary decent people by providing untrue billable hours and fees generated information (allegation 1.2) and by confirming the truth of the information supplied when she knew that the information supplied was not true or accurate (allegation 1.3).

The Respondent's Case

- 14.20 The allegations were denied.

- 14.21 In the Respondent's Answer it was said that the proposal form was prepared by Mr Bisset and that she had met with him to review the form and her pipeline document. The Respondent's case was that Mr Bisset and Dentons viewed the historical billings information as "only illustrative" and that her pipeline document was "key". Based on their discussions Mr Bisset had produced the proposal form and sent it to the Respondent. In his covering email he stressed that the prospective billings he had included were "conservative estimates" based on their discussions and that they were estimates but that:

"with your past figures coupled with your pipeline and hopeful uplift from the Dentons' platform you can support these estimates."

- 14.22 The proposal form recorded, amongst other things that:

"...It is key that she is given time to embed herself in TMT and the wider office and make the key relationships which will enable her (and her team) to have a better quality of life, export her contacts and relationships and be available to be introduced to the opportunities we have for her in this and other regions";
and

"Throughout the interview process we have been alive to the risk that Tracey will repeat her work behaviours in the past, by this we mean pushing herself and her team to work (long-term) unsustainable hours (> 2000 hours p.a.), not fully integrating into the Firm and in turn leaving within a 3 - 4 year period. We have discussed this with Tracey and genuinely believe she is keen to change this. The integration plan detailed in section 4 of the LPQ is key to this being a success, in order for us to maximise her potential we must allow her to put down roots and ensure that she has the resources and support to develop and engrain her practice within the office, region and firm".

- 14.23 The Respondent did not perceive she was afforded such opportunities and it became apparent to the Respondent shortly after she joined Dentons that the sentiment expressed in the proposal form did not materialise.

- 14.24 It was also stressed that the information provided by the Respondent to Dentons formed part only of the information upon which Dentons determined whether or not to make an offer of partnership to the Respondent. Dentons carried out their own detailed due diligence and requested the Respondent provide client references which she believes Dentons took up.

- 14.25 As set in relation to allegation 1.1, the Respondent's belief was that she was not afforded time to "embed herself" into the firm, or provided with the resources and support to develop her practice. Her case was that within approximately five to six months or so of her starting, Dentons were pressing her as regards her performance levels. By way of example, by email dated 17 March 2016, one partner wrote to another and said:

"there is no disguising the fact that these are sick figures (not in the sense, unfortunately, that my kids use that word). The only thing I wanted to flag was the tone of the conversation and what is likely to yield best result. Ultimately, there are only rewards for results and not for effort but keeping her in a mental place where her efforts are being used effectively will be influenced by tone I think and that's all I wanted to discuss".

- 14.26 By email dated 7 June 2016 SS wrote to BR and said, "Who has a copy of Tracey's offer letter? It would be good to understand what we have agreed". By email dated 10 June 2016 he wrote to various partners and said:

"Can you dig out the LPQ for Tracey and the papers for her we produced. Also can you let me know which partners met her and when (if you still have that info). Also any PAC notes or papers if you have."

It was submitted that these, and other similar, mails confirmed the Respondent's belief that it was the pipeline work that was important to Dentons rather than her historical performance and as relayed to her by Mr Bissett.

- 14.27 The email dated 10 June 2016 went on to say:

"I was slightly alarmed to learn ... that [the Respondent] feels that is not what she said and that she was promised time and support to build her practice (and is suggesting she is not getting it - something I do not think it is fair to say). My understanding was she was not that type of hire - I cannot believe we would have sanctioned a start-up/ investment play in the telecoms field given our experience of its general underperformance over recent years. Any insight you can help provide would be hugely helpful."

In her Answer it was stated that the Respondent interpreted these, and other similar, comments as revealing an attitude not consistent with the proposal form that she be allowed to "embed herself" within the firm and "... we must allow her to put down roots and ensure that she has the resources and support to develop and engrain her practice within the office, region and firm."

- 14.28 In her Answer the Respondent's case was that to the extent that the information contained within the proposal form (said to have been prepared by Mr Bissett and approved by the Respondent) contained information relating to her billable hours and fees generated historically, this was based upon the FP schedule prepared by the Respondent from her recollection and her knowledge and belief, genuinely held, at the time she prepared the document in February 2015, as set out in response to allegation 1.1.

14.29 As also summarised in relation to allegation 1.1, in her witness statement and oral evidence the Respondent also stated that the historical billable hours and fee information was illustrative of what could have been achieved with fuller support, and that this was understood by those who recruited her at Dentons as she had explained it in various meetings. It was again submitted that the Applicant's case was defective as no evidence had been produced from those with whom the Respondent had met or who were involved in her recruitment.

Breach of the Principles and response to alleged dishonesty

14.30 On the basis of the above, the alleged breaches and aggravating allegations of dishonesty were denied on the same basis set out in relation to allegation 1.1.

The Tribunal's Decision

14.31 The Tribunal carefully reviewed the proposal form to which it was referred. As described in the summary of the Applicant's case above, the form contained sections labelled "Performance Information – Time Recording" and also "Financial Performance Information".

14.32 The form was signed by the Respondent and the candidate confirmation wording was as summarised above by the Applicant. It was not suggested by or on the Respondent's behalf that she had not signed the proposal form.

14.33 The Tribunal accepted that the projections for future earnings would no doubt have played a significant part in the Respondent's appointments by Dentons. The Respondent had stressed in her evidence that this was their primary focus. However, as indicated in the findings in relation to allegations 1.1, the Tribunal had rejected that she had told individuals at Dentons that the historical billings figures in her FP schedule were illustrative of what would have been possible had she been fully supported. The Tribunal similarly rejected on the same basis that the figures set out in the proposal form under the heading "Performance Information – Time Recording" and also "Financial Performance Information" could conceivably be understood to be anything other than statements of historical fact to be taken at face value.

14.34 During cross-examination the Respondent was unable to explain why Mr Goodwin had not put to Mr Bisset on her behalf her case that what appeared to be historical figures were not intended or understood as such. The Tribunal did not consider the Respondent's account to be credible. She had acknowledged that Mr Bisset had understood the figures she had provided to reflect historic billing and time recording reality.

14.35 The Tribunal did not consider that the absence of the various individuals at Dentons that the Respondent had named undermined the Applicant's case or gave rise to any doubt as to whether the figures set out in the proposal form were misleading and misrepresented the historical billing and hours position. That the contents of the form appeared to reflect accurately what had happened in the relevant years was plain on its face. The Tribunal had rejected the Respondent's account that she had explained that the figures were illustrative as completely incredible for the reasons given in relation to allegation 1.1.

14.36 The Tribunal had accepted the actual historical billings figures, allowing for a small margin of error to reflect the different measurement of originations, provided by Ms Robson of TW for the reasons set out in relation to allegation 1.1. The purported historical billing figures for the current and previous three years, as set out in the proposal form, bore no relation to the actual figures. Similarly, the purported billable hours figures which were represented in the proposal form vastly inflated the actual hours recorded on the TW system as confirmed by Ms Robson. Even accepting the Respondent's account that there may very well have been very extensive hours worked which were not recorded, her figures in the proposal form were not presented as such estimates. The figures were described as "billable hours" and the figures included were quoted to the individual unit (a tenth of an hour). For example, the total billable hours listed in the table headed "Performance Information – Time Recording" were:

Current Year:	2452.7
Prior Year:	2637.2
Two Years Ago:	2690.9
Three Years Ago:	2441.7

14.37 Mr Bisset had confirmed in his evidence that he had drafted the proposal form, based on information supplied by the Respondent. The Respondent's evidence was that she had explained the basis of the FP schedule as set out in allegation one. If her suggestion was that the presentational error was Mr Bisset's and that he had somehow misunderstood the basis of the figures she had provided and set them out in a manner which was on its face misleading, the Tribunal did not consider that this amounted to an answer to the allegation. The Respondent had approved and signed the proposal form. She had thereby at least endorsed the figures above. The time recording figures were represented as historical figures which had been achieved. The historic billing figures were similarly represented as having been achieved. As set out above, both sets of figures were wildly and grossly inaccurate.

14.38 Having carefully reviewed the proposal form the Tribunal accepted that the section headed "Current and recent clients" repeated misleading statements and information which were included in the FP schedule. The proposal form included the same £571,000 figure for billings for client DR in the financial year 2013/14. The Tribunal had found in relation to allegation 1.1 that this was not accurate and had rejected the Respondent's account that it was either a figure she genuinely believed to be accurate or was an illustrative figure she had explained to various individuals at Dentons. Similarly, the proposal form included £513,000 billings for client MC in the financial year 2011/12, for whom the Respondent had accepted in cross examination that she had not worked since she had been at Hammonds (prior to joining TW in April 2011). There were other examples but these two illustrate the basis for the Tribunal's finding that the proposal form contained not only misleading billable hours and billings figures but also inaccurate information about specific client projects and even clients worked for at particular times.

14.39 There was no evidence of any campaign on the part of Dentons to "force" the Respondent out of the firm. There was plentiful evidence of concern at her financial performance. Even had there been such a campaign, it would not have rendered accurate information which bore very little relation to the actual billing or time recording reality. The Tribunal was mindful, however, of the evident pressures placed upon partners to

meet billing targets, and also made an observation regarding the importance for firms to ensure the well being of their partners in light of these relentless pressures.

Breach of the Principles

- 14.40 Applying the Wingate test for conduct lacking integrity, the Tribunal found for the same reasons set out in relation to allegation one, that putting forward misleading and false information in the proposal form was conduct falling well below the minimum acceptable ethical standard of the profession. This applied both to the billable hours and fees generated information within the proposal form (allegation 1.2) and the confirmation as to accuracy that she gave (allegation 1.3). The alleged breaches of Principle 2 were accordingly proved beyond reasonable doubt in relation to both allegations.
- 14.41 Again mirroring the decision in relation to allegation 1.1, the Tribunal found proved beyond reasonable doubt that such conduct would undermine public trust in the Respondent and in the provision of legal services in breach of Principle 6.

Decision on alleged dishonesty

- 14.42 The Tribunal again applied the two-stage test in Ivey. Applying the first stage of the test, relating to the state of the Respondent's knowledge, the Tribunal had found that the Respondent had known that the time-recording and financial performance information contained within the proposal form were not historically accurate. The Tribunal had found that she knew they were represented as such and understood by Mr Bisset who worked on the proposal form with the Respondent as such (allegation 1.2). Again, the Tribunal also found that she must have known that Dentons would not engage her in the absence of such representations.
- 14.43 The proposal form contained the wording described by the Applicant, confirming the truth and accuracy of the information. The Respondent had signed the confirmation (allegation 1.3). The Tribunal had no doubt that the Respondent knew that the information was not accurate but was presented as if it were.
- 14.44 Once the above findings as to her knowledge and belief as to the facts had been made the Tribunal was sure that ordinary decent people would regard her conduct as dishonest. The aggravating allegation of dishonesty was accordingly proved beyond reasonable doubt in relation to allegations 1.2 and 1.3.
15. **Allegation 1.4: On 27 July 2016 the Respondent sent an e-mail to SS, a partner at Dentons in which she knowingly misrepresented her billings in relation to client MM, or in the alternative ought to have known that she misrepresented her billings in relation to client MM, in breach of all or alternatively any of Principles 2 and 6.**

The Applicant's Case

- 15.1 As set out above, the Respondent's financial performance at Dentons was considered to be very poor compared to the information she had provided during the recruitment process. The Applicant stated that she gave a number of explanations for the lack of

work and billings, but that Dentons doubted the legitimacy of her pipeline and her explanations.

- 15.2 In an e-mail exchange on 27 July 2016 between the Respondent and SS, she suggested that one of her main clients, MM was not prepared to instruct Dentons because of an issue over another matter. That ultimately proved not to be an issue between MM and Dentons but in the e-mail exchanges the Respondent attempted reassure SS regarding the pipeline of work from MM by saying:

“MM billings have always exceeded £1m for TMT and over £1m for other departments within Squire Sanders/Hammonds/TW /Nabarro”.

- 15.3 As set out above, Dentons obtained information from TW about the Respondent’s historical billings.
- 15.4 The figures received showed that the Respondent billed client MM a total of £151,490 between 2011/12 and 2014/15 whilst at TW. In contrast, the Respondent had represented in the FP schedule that she had billed MM a total of £944,956 over three financial years whilst at TW.
- 15.5 The Applicant alleged that her claim in the e-mail to SS was a continuation of the misrepresentation about her historical fees billed at TW for client MM and was intended to reassure him that the work in the pipeline document would eventually come to fruition.

Breach of the Principles

- 15.6 It was alleged that in misrepresenting the level of fees that the Respondent billed client MM in her email to SS, she acted without integrity in breach of Principle 2. It was further alleged that she acted in a manner that undermined public confidence in her and in the provision of legal services in breach of Principle 6.

Dishonesty alleged

- 15.7 The Applicant relied upon the Ivey test described in relation to allegation 1.1 above. As to the first limb of the test, the Respondent’s actual knowledge or belief, it was alleged that:
- The Respondent was aware of her level of billings for client MM but she misrepresented the level of her billings in the e-mail.
 - She did so as she to reassure him that the work from the client as set out in her pipeline document would come to fruition.
- 15.8 Applying the second limb of the Ivey test, it was submitted that the Respondent acted dishonestly according to the standards of ordinary decent people by misrepresenting the level of her billings for client MM.

The Respondent’s Case

- 15.9 The allegation was denied.

- 15.10 By the date of the relevant email the Respondent had been at Dentons for approximately 9 months. The Respondent had an excellent relationship with MM spanning a period of approximately 15 years. In each firm where the Respondent had worked, MM had instructed her in telecoms work. However, MM also provided work in other specialisms within each firm. The nature of the relationship with MM was that MM would bid the Respondent into projects and on other occasions the Respondent would bid MM into projects and they worked collaboratively together. The Respondent's case was that as at the date of the email, 27 July 2016, her knowledge and belief, genuinely held at that time, was that MM had historically generated £1m of billings annually.
- 15.11 In her Answer, the context of the email relied upon by the Applicant was emphasised. On 27 July 2016 she had written to SS and others stating that she had been embarrassed to be told by a contact at MM that instructions to Dentons were under "review". This was due to "an issue of perceived overcharging" on an unrelated matter. It was noted in the Answer that in the exchange of emails about the Respondent's pipeline of work, to which the Tribunal was referred, those at Dentons did not seek to challenge the Respondent's representation as regards the historical billings with MM. The Respondent's case was that she had set out her genuine knowledge and belief at the time as to the historical billing position with MM.

Breach of the Principles and alleged dishonesty

- 15.12 The alleged breaches were denied as set out above on the basis that the email reflected the Respondent's genuine belief.

The Tribunal's Decision

- 15.13 The wording of the Respondent's email was clear as set out above. The Respondent had stated that MM's billings have "always exceeded £1m for TMT and over £1m for other departments". She had listed TW amongst four firms where this was stated to have been the case.
- 15.14 As set out above in relation to allegation 1.1, the Tribunal had accepted the historical billings figures from TW as provided by Ms Robson. Ms Robson's evidence, exhibiting the annotated FP schedule, was that client MM was billed a total of £151,490 by the Respondent between the financial years 2011/12 and 2014/15. The Respondent had stated in the FP schedule that she had billed this client a total of £944,956 over three financial years whilst at TW.
- 15.15 When it was put to the Respondent in cross-examination that she had billed this client only £151,490 over three years the Respondent did not seek to challenge this figure. The Respondent's evidence was that the client MM was sometimes a client in its own right and sometimes an intermediary. She had also stated that very significant amounts of work for this client were completed by other departments and so were not included within the TMT billing figures. The Tribunal considered that the Respondent had been unable to answer when it was put to her in cross-examination that she had misrepresented her own billings in her email to the SS.

- 15.16 The Tribunal accepted the submission that the email was a continuation of the misrepresentation of the historical billings information for this client. The email was not sent in isolation, it followed the submission of documents to Dentons which overstated her own personal billings to this client and was sent in the context of discussions about the Respondent's disappointing financial performance since she joined Dentons. The clear and obvious implication of the wording of her email was to vastly overstate the level of her own billings to this client (as she had in the FP schedule and the partnership proposal form).
- 15.17 As with the findings which had been made about the billings figures for this client in relation to allegations 1.1 and 1.2, the Tribunal was similarly sure that the Respondent was aware that the representation she made in the email to SS was false. Given the extent of the inaccuracy the Tribunal again rejected that this could be due to any oversight or that the Respondent could have been unaware that the email was misleading.

Breach of the Principles

- 15.18 Applying the Wingate test again the Tribunal had no doubt that sending an email which the Respondent knew to be misleading to a partner at her new firm was conduct which failed to adhere to the ethical standards of the profession. Solicitors should always be scrupulously accurate in correspondence and this was only heightened in circumstances where the Respondent's performance was under discussion with those who had recruited her and had relied on the information she had provided when doing so. Public trust in the Respondent and in the provision of legal services would be undermined by such conduct. The Tribunal had no doubt that the conduct found proved amounted to a breach of Principles 2 and 6.

Decision on alleged dishonesty

- 15.19 The Tribunal again applied the two-stage test in Ivey. Applying the first stage of the test, relating to the state of the Respondent's knowledge, the Tribunal had found that the Respondent had known that the email she sent to SS had misrepresented her billings to client MM whilst at TW. The Tribunal had no doubt that the Respondent knew that the impression created by her mail was not accurate. The Tribunal was sure that ordinary decent people would regard her conduct as dishonest. The aggravating allegation of dishonesty was accordingly proved beyond reasonable doubt.
16. **Allegation 1.5: Between December 2016 and April 2017 the Respondent provided HDL with a business plan and a schedule of her hours and billings as part of a recruitment process for her to become a partner, knowing that the information in the business plan and in the schedule was untrue or in the alternative ought to have known that the information contained in the business plan and schedule was untrue, in breach of all or alternatively any of Principles 2 and 6.**

The Applicant's Case

- 16.1 In December 2016 whilst the Respondent was still a partner at Dentons she sought out an opportunity to become a partner at HDL. The Respondent had previously worked at HDL as junior lawyer in its marine team between 1995 and 1999.

- 16.2 In December 2016, the Respondent gave a presentation to HDL's Head of Business services. The Respondent also provided HDL with a business plan. The business plan identified the projects that the Respondent would bring to HDL and how she would take them forward. Amongst the document provided by the Respondent during the recruitment process was a schedule of billings and hours relating to her time at TW and Dentons.
- 16.3 The Applicant's case was that the Respondent's business plan contained historical billings for clients which the Respondent had exaggerated or did not bill whilst at TW or Dentons. The schedule of billings and hours contained information about her total originations both at TW and Dentons which, in relation to each year for which she provided the information, overstated the value of the work which she had brought into those firms between 177% and 572%. The schedule similarly overstated her billable hours whilst she was at TW by between 29.1% and 158%.
- 16.4 The Respondent took up a post as a partner at HDL on 25 September 2017.
- 16.5 Mr Levey invited the Tribunal to compare the billings information supplied by the Respondent to HDL with that she supplied to Dentons. He stated that the same figures were included, but were allocated to different financial years. For example, the 2011/12 figures for originations from the FP schedule (supplied to Dentons) were included in the schedule of billings (for HDL) for the year 2012/13. Each year's figures from the FP schedule were moved along one year in the schedule of billings supplied to HDL.
- 16.6 The same applied to time recording figures. Mr Levey submitted that this could not be explained by an innocent mistake.
- 16.7 The figure supplied to HDL for the current year (then 2016 to 2017) for total originations was £2,163,000. Relying on billings information exhibited to the second witness statement of Mr Cheung, the total amount that the Respondent (and her associate solicitor with whom she worked closely) had billed throughout the entire time she worked at Dentons was £308,269. It was submitted to be clear that the Respondent could not have billed the £2,163,000 claimed in 2016/17 to date when her entire originations during her time at Dentons were £308,269.
- 16.8 As with the FP schedule supplied to Dentons, it was alleged that the business plan supplied to HDL overstated the value of her billing history for clients and also included clients that she had not billed for any work for at TW and Dentons. The Rule 7 Statement included four specific examples from the business plan supplied to HDL:
- The Respondent referred to client ACS and stated that the "Billing history over past 4 years has been £189k-£450k...". The available figures showed that the Respondent only billed this client £19,583 whilst with TW and £42,325 whilst with Dentons.
 - The Respondent referred to client VS and stated that "last 3 years billings grew from £110k-£380k pa". The available figures showed that she billed VS £10,7143 whilst at Dentons and did not bill this client at all at TW.

- The Respondent referred to client M and stated that “last 4 years billings grew from £228-£380k pa” She billed client M £6,755 whilst at TW and did not bill work for this client at Dentons.
- The Respondent referred to client MTN and stated “last year billed £327k”. She did not bill this client at Dentons.

Breach of the Principles

- 16.9 It was alleged that the Respondent would have known that the information she supplied was false to a material degree. She would have been aware that she did not bill millions of pounds of fees whilst at TW or Dentons. She would have been aware as to whether she had billed clients or not, particularly at Dentons where she was still working at the relevant time.
- 16.10 The Respondent’s remuneration was based upon her billings so she would have had a good knowledge of her billings and work undertaken for clients. The Respondent had provided her originations and billable hours in the proposal form to Dentons in April 2015 which were different to those that she provided to HDL for the same financial years.
- 16.11 In knowingly providing untrue information, or in the alternative in providing information which she ought have known was not true, it was alleged that the Respondent lacked integrity in breach of Principle 2. It was further alleged that she acted in a way that undermined public confidence in her and the provision of legal services in breach of Principle 6.

Dishonesty alleged

- 16.12 The Applicant relied upon the Ivey test described in relation to allegation 1.1 above. As to the first limb of the test, the Respondent’s actual knowledge or belief, it was alleged that:
- The Respondent knew that HDL would trust her to provide true and accurate information during the recruitment process.
 - She knew that HDL would rely upon the schedule of hours and billings and her business plan (both which contained evidence of her financial performance) for the purposes of the process of recruiting her as a partner.
 - She was aware that HDL would not be seeking a reference from Dentons in light of the issues between the Respondent and Dentons.
 - She knew that she did not bill millions of pounds in each financial year whilst at TW and Dentons.
 - She knew the true level of her billable hours and that she had only achieved her billable hours target in one financial year whilst at TW.
 - She exaggerated her billable hours in the schedule of hours and billings to show that she achieved her billable hours in each financial year whilst at TW when she had not.
 - She did so in order to improve her prospects of securing partnership at HDL.

- She knew that the historical billing figures for clients in her business plan were false.
- She knew that by exaggerating the level of fees she billed she stood a better chance of HDL recruiting her as a partner.
- The Respondent was said to have been unable to explain how she calculated the level of fees or billings that she provided to HDL, despite providing specific figures.

16.13 Applying the second limb of the Ivey test, it was submitted that the Respondent acted dishonestly according to the standards of ordinary decent people by providing to HDL grossly exaggerated and false information relating to her billable hours, fees generated, and historical billings undertaken for clients.

The Respondent's Case

16.14 The allegation was denied.

16.15 The Answer to the Rule 7 Statement stressed that the Respondent had undergone a rigorous recruitment exercise prior to joining HDL.

16.16 During 2016, whilst a partner at Dentons, the Respondent experienced both family tragedy and a working environment that she described as bullying, unsupportive, undermining and detrimental to her mental and physical health. In this context JB of Red Law mentioned that HDL were seeking a partner to assist with its growth ambitions in Manchester.

16.17 Between December 2016 and April 2017 the Respondent, prepared a business plan based on her previous knowledge of HDL, the areas of excellence contained within HDL and a strategy that would enable her to grow a telecoms capability within the firm. The Respondent denied that the contents of the business plan were untrue. As with the previous allegations, it was stated in the Answer that Respondent considered that from her recollection, knowledge and genuine belief that any figures provided in the schedule of hours and billings represented the actual amount of significant effort undertaken and contribution made to billings.

16.18 In the Answer it was stressed that the Respondent considered that the role of a partner was about the contribution an individual makes not only to billings but to supporting the firm's growth ambitions, integration into overseas offices, winning new clients for the firm as a whole (not just for that individual partner), cross-selling new clients into overseas offices, being a member of society and thereby raising the profile of the firm by undertaking extra-curricular roles such as participating in policy workshops and community initiatives. This contribution equates to financial contribution/growth including the billings of the individual, team, cross discipline teams, overseas offices and firm as a whole. The Tribunal was referred to documents submitted to demonstrate that the Respondent gave effect to this belief.

16.19 The Respondent, with hindsight, accepted that there was an apparent discrepancy between certain of the figures provided to HDL. However, she reiterated that she never had any intention to provide inaccurate information. The Respondent did not consider that the information provided by her to HDL was "false to a material degree" as alleged.

Breach of the Principles

16.20 The Respondent genuinely believed that the information provided to HDL was a true reflection of the contribution that she had made at TW and DL. On this basis the alleged breaches of the Principles were denied. In the alternative, any discrepancy was not material and/or reflected the fact that the figures were a genuine attempt to reflect the wider contribution made by the Respondent.

Response to alleged dishonesty

16.21 It was submitted that the question for the Tribunal was whether the Respondent genuinely believed that the information she provided to HDL was a true and accurate reflection of what she perceived to be her contribution, in all respects, made at TW and Dentons.

16.22 Contrary to what was alleged about the Respondent's understanding and perception, her remuneration was not just based on billings at TW and/ or Dentons, but was based on her contribution to pitches, cross-selling, client development. At both TW and Dentons partners were said to be given more credit to cross selling for other departments than just generating fees and/ or clients for themselves. The Respondent's evidence was that she held a genuine belief that the information provided fairly and properly reflected the position and her contribution.

16.23 It was submitted to be inconceivable that the Respondent would have knowingly provided inaccurate information in documentation which the Respondent would know could readily be checked for accuracy. Even in the event the Tribunal concluded that the Respondent's approach was unorthodox and/or unreasonable, (which were denied), it was submitted that was not the test to be applied in determining the dishonesty allegation.

The Tribunal's Decision

16.24 The Tribunal carefully reviewed and contrasted the FP schedule supplied to Dentons and the business plan supplied to HDL. It was clear from the face of the documents that the same figures (for both time recording and financial performance) had been included in both documents but in different financial years. Logically both documents could not be accurate and reflect reality.

16.25 The Respondent supplied her business plan to HDL in December 2016. By this time she knew that her financial figures were under scrutiny by Dentons. The Tribunal's findings as to the Respondent's credibility generally are summarised above. The Tribunal considered that her oral evidence in relation to allegation 1.5 was particularly unconvincing. She provided no real explanation in her oral evidence of how the same figures came to be included in different financial years in the two documents. She repeatedly answered that she could not recall or could not explain how the figures were generated. Mr Goodwin did not address this on her behalf in his closing submissions. Given the obvious importance of both formal documents, and the reliance which would inevitably be placed in such a document submitted as part of an application process, the Tribunal rejected as implausible that the inclusion of the same figures in different years was an oversight.

- 16.26 The Respondent similarly failed to offer any coherent explanation in her oral evidence of how the billings figures in the business plan supplied to HDL were so markedly different from the figures recorded on the Dentons and TW financial systems. She answered that she could not recall when asked how the figures she quoted were generated. During cross-examination the Respondent agreed that client MTN was not in fact a client whilst she was at Dentons and did not explain how the client came to be listed as a client who was billed £327,000 last year.
- 16.27 The Tribunal had accepted the Dentons' billings figures as exhibited to the witness statement of Mr Cheung. His evidence was straightforward and fitted the pattern which the Tribunal had already accepted in relation to the figures supplied by the Respondent to Dentons concerning her billings and hours at TW. The evidence appended to his statement, which he explained in his oral evidence, was that the Respondent's total billings (which included those of the associate with whom she worked) whilst at Dentons was £308,269. The purported originations for the current year, which were stated in the business plan supplied to HDL to be £2,163,000, were self-evidently grossly exaggerated.
- 16.28 Given the vagueness and lack of credibility of the Respondent's oral evidence, to the extent that she offered no meaningful explanation of the hours and billings figures supplied to HDL, the Tribunal was unavoidably driven to the conclusion that the contents of the schedule were completely unreliable and did not correspond to reality. The Tribunal rejected the submission that the figures reflected any genuine belief of the Respondent as to her hours or billings figures. It was the evidence of both Ms Robson and Mr Cheung that the Respondent had routine and easy access to time recording and billing information at TW and Dentons respectively. The Tribunal accepted that some degree of access must have been possible such that it was not credible that as a partner the Respondent did not have the scope to check the relevant figures.

Breach of the Principles

- 16.29 Having found that the Respondent did not have a genuine belief in the accuracy of the figures she put forward, and that they vastly overstated her billable hours and billing information, the Tribunal again had regard to the test in Wingate. The Tribunal had no doubt that providing a schedule of hours and billings as part of a recruitment process which the Respondent knew to be inaccurate was conduct which fell below the minimum ethical standard of the profession. The Tribunal found proved beyond reasonable doubt that the Respondent had thereby breached Principle 2.
- 16.30 For the same reasons, the Tribunal accepted that such conduct would undermine public trust in the Respondent and in the provision of legal services. The Tribunal found proved beyond reasonable doubt that the Respondent had breached Principle 6.

Decision on alleged dishonesty

- 16.31 The Tribunal again applied the two-stage test in Ivey. Applying the first stage of the test, relating to the state of the Respondent's knowledge, the Tribunal had found that the Respondent had known that the figures she supplied to HDL in the business plan and schedule were inaccurate and untrue. It was self-evident that HDL would rely upon the figures as part of the recruitment exercise. The Tribunal was sure that ordinary

decent people would regard this conduct as dishonest. The aggravating allegation of dishonesty was accordingly proved beyond reasonable doubt.

Previous Disciplinary Matters

17. There were no previous disciplinary findings.

Mitigation

18. As set out above, the Respondent had made reference to the impact of the events set out above and her personal circumstances at the time of the relevant conduct.
19. Mr Goodwin did not make further submissions in mitigation. He referred to the case of SRA v Sharma [2010] EWHC 2022 (Admin)) and the judicial comment that a finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances. Mr Goodwin stated that he was realistic about the outcome given the findings made and the applicable guidance.

Sanction

20. The Tribunal referred to its Guidance Note on Sanctions (8th edition) when considering sanction. The Tribunal assessed the seriousness of the misconduct by considering the level of the Respondent's culpability and the harm caused, together with any aggravating or mitigating factors.
21. In assessing culpability, the Tribunal found that the Respondent's motivation in putting forward the misleading documents was personal professional development. The Tribunal considered she was motivated to seek to evade situations which were very difficult for her personally. She described being subject to intense pressure to generate fee income and the Tribunal considered that her evidence that she sought to move into a more personally sustainable position was genuine. In relation to the information she supplied to Dentons and HDL, her objective was to persuade the firms to take her on in a senior partnership positions when they otherwise would not have been likely to do so. The Respondent's conduct was planned. It involved the production of various detailed documents, was repeated and could not be described as spontaneous. The Tribunal considered that the Respondent was in a position of trust with regards to the partners of Dentons to whom she made the misleading comments including the email, which was subject of allegation 1.4, sent after she had joined the firm as a partner. The Respondent had direct control over the circumstances of her misconduct, although the Tribunal accepted that she was under considerable pressure and worked very long hours on a regular basis. The Respondent was a very experienced solicitor. The Tribunal assessed her culpability as high.
22. The Tribunal considered the harm caused by the misconduct was entirely foreseeable. Dentons had incurred considerable expense in the recruitment exercise in which the misleading documents were supplied. The Tribunal noted that considerable harm had been caused to the Respondent herself. The harm to the reputation of the profession caused by an experienced and successful solicitor dishonestly providing misleading information in order to secure personal advancement was very serious.

23. The Tribunal then considered aggravating factors. Findings that the Respondent had dishonestly supplied schedules about her financial performance to Dentons and HDL, a proposal form to Dentons and a misleading email to a partner at Dentons had been made. The Tribunal had found the conduct was deliberate, calculated and repeated over time. The Tribunal also considered that the Respondent must have known that the conduct complained of was in material breach of her obligations as a solicitor to protect the reputation of the profession.
24. The Tribunal also considered mitigating factors. The Respondent had an otherwise unblemished record and had produced extremely positive testimonials which spoke about her professionalism and integrity. She had provided an account of being subject to commercial pressures and the pressure to work excessive hours as well as having to cope with very trying personal circumstances at the relevant time.
25. The overall seriousness of the misconduct was high; this was inevitable given the multiple dishonesty findings. In addition, the Tribunal had found that the Respondent's conduct represented a complete departure from the integrity and probity required from solicitors. As the Respondent had been found to have been dishonest, the Tribunal had regard to the case of Sharma and the comment of Coulson J that, save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll.
26. The Tribunal considered the nature, scope and extent of the dishonesty and whether it was momentary, of benefit or had an adverse effect on others. The nature of the dishonesty was that the Respondent had provided misleading material as part of applications to join two firms, and to a partner of one firm after she had joined. The extent of the conduct was that in four documents provided on four occasions the information provided by the Respondent had been inaccurate and misleading. The misconduct was not momentary. As set out above the Tribunal considered that there was a direct personal and financial benefit to the Respondent as the information was supplied as part of an application for partnership.
27. The Tribunal had not been expressly invited to consider that exceptional circumstances existed such that the Respondent should not be struck off. The Tribunal noted that following SRA v James et al [2018] EWHC 3058 (Admin) the exceptional circumstances must relate in some way to the dishonesty. Whilst the Tribunal recognised the force of the personal circumstances the Respondent described, including in relation to her health, this was quite removed from the dishonest conduct which focused on the provision of information to Dentons in early 2015 and mid-2016 and to HDL in late 2016/early 2017. The Tribunal was not persuaded that any exceptional circumstances satisfying the requirements of Sharma and James existed. Accordingly, the Tribunal determined that the findings against the Respondent including dishonesty required that the appropriate sanction was strike off from the Roll.

Costs

28. The total costs claimed in the Applicant's schedule of costs dated 2 March 2020 was £51,615. On behalf of the Applicant Mr Levey applied for costs in this sum. Mr Levey stated that the schedule had not been updated since 2 March 2020 when the hearing had been adjourned following an application from the Respondent. There had been four case management hearings since that date and the Applicant had had to bear the costs

of Mr Levey re-preparing the case. Mr Levey stated that the Applicant had in fact incurred costs of over £10,000 since the schedule of 2 March 2020 but had taken a proportionate view of cost recovery. He submitted that the Respondent had brought the proceedings upon herself which related to serious allegations of dishonest conduct and that if the costs sought were not awarded the profession would bear the costs. He submitted such an outcome would be unjust.

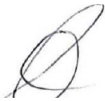
29. On the basis that the schedule of costs had not been amended or increased since 2 March 2020 Mr Goodwin stated that he had no submissions on costs to make.
30. The Tribunal assessed the costs for the hearing. The Tribunal had heard the case and considered all of the evidence. The Tribunal considered that having regard to the level of documentation and the work necessarily involved in the Application, the costs claimed were reasonable in all the circumstances. The Tribunal ordered the Respondent to pay the Applicant's costs of and incidental to this application fixed in the sum of £51,615.

Statement of Full Order

31. The Tribunal ORDERED that the Respondent, Tracey Ann Sheehan, be STRUCK OFF the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £51,615.

Dated this 9th day of July 2021.

On behalf of the Tribunal



B. Forde
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
9 JUL 2021