

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11945-2019

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

SHUAIB SAEED

Respondent

Before:

Miss H. Dobson (in the chair)

Mr J. A. Astle

Mr S. Hill

Date of Hearing: 29 and 30 July 2019

Appearances

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

The Respondent did not attend and was not represented.

JUDGMENT

Allegations

The allegations against the Respondent made by the Applicant were set out in a Rule 5 Statement dated 10 April 2019. The allegations were that whilst an employee of MK Law Solicitors Limited (“the Firm”) he:-

1. From an unknown date, but at least since 31 August 2016, until on or about 23 January 2018, undertook work and received monies into his personal bank account from clients which he acted for purportedly under the auspices of the Firm and without the knowledge or consent of the Firm.

The Respondent thereby breached any, or all, of:-

- a) Rule 1.1 of the Practice Framework Rules 2011 (“PFR”);
- b) Rule 19.1 of the Practice Framework Rules 2011;
- c) Principle 2 of the SRA Principles 2011 (“the Principles”);
- d) Principle 4 of the Principles;
- e) Principle 5 of the Principles;
- f) Principle 6 of the Principles;
- g) Principle 8 of the Principles;
- h) Principle 9 of the Principles;
- i) Principle 10 of the Principles;
- j) Outcome 1.8 of the SRA Code of Conduct 2011 (“SCC”);
- k) Outcomes 8.1, 8.4 and 8.5 of the SCC.

2. The Respondent repeatedly contacted Mr A to try to persuade him to continue to use his services, despite being informed by Mr A that he no longer wished to retain the Respondent as his representative; and the Respondent attempted to persuade Mr A to drop his service complaint to the Firm, offering Mr A money as an inducement to do so.

The Respondent thereby breached any, or all, of:-

- a) Principle 2 of the Principles;
- b) Principle 4 of the Principles;
- c) Principle 5 of the Principles;
- d) Principle 6 of the Principles;
- e) Outcomes 2.1 and 2.2 of the SCC.

3. The Respondent prepared a settlement agreement for LD by which he alleged that a victim named “JE” would be compensated when in fact it was a device for the Respondent to benefit personally as the Metropolitan Police confirmed that there was no victim named “JE” in their investigation against LD.

The Respondent thereby breached any, or all, of:-

- a) Principle 2 of the Principles;
- b) Principle 4 of the Principles;
- c) Principle 5 of the Principles;
- d) Principle 6 of the Principles;

e) Principle 10 of the Principles.

4. From a date unknown, but at least since 31 August 2016, until or about 23 January 2018, the Respondent falsified legal and contractual documents in several matters by the following acts/omissions:-
 - 4.1 The Respondent falsely claimed for Legal Aid funding for LD on 31 August 2016 and on an unknown date in December 2017 for two separate fixed interview fees when the Respondent knew or reasonably ought to have known that he had been personally remunerated on a private fee-paying basis;
 - 4.2 The Respondent omitted to check in all of the cases cited in the Rule 5 statement if the Defendants, save for LD, were entitled to receive Legal Aid funding;
 - 4.3 The Respondent misused the Legal Aid Certificate for Mr PH on the file of Mr H when the Respondent knew or reasonably ought to have known that he had omitted to apply for Legal Aid in this matter for Mr H and as such was utilising this document a cover for his omission to make the appropriate funding application;
 - 4.4 The Respondent misled his employer that he was attending a video link appointment at Bromley Magistrates Court in the matter of Mr N to cover the fact that he was appearing for Mr H at a hearing in his matter.

In respect of Allegations 4.1 to 4.4, which could be taken as either individual incidents or in their totality to prove the Allegation, the Respondent thereby breached any, or all, of:-

- a) Principle 1 of the Principles;
 - b) Principle 2 of the Principles;
 - c) Principle 4 of the Principles;
 - d) Principle 5 of the Principles;
 - e) Principle 6 of the Principles;
5. From an unknown date, but at least since 31 August 2016, until on or about 23 January 2018, the Respondent failed to comply with the SRA Accounts Rules 2011 (“SAR”) in the following ways:-
 - 5.1 The Respondent failed to comply with the requirement to place client money in an identifiable client account and to keep it separate from his own funds;
 - 5.2 The Respondent failed to keep proper accounting records or to establish proper systems to protect client money and therefore put those funds at risk;
 - 5.3 The Respondent failed to appropriately manage client money when raising an invoice for his services as there was no office account to which he could transfer the fees to after the work was completed;

In respect of Allegations 5.1 to 5.3, which could be taken as either individual incidents or in their totality, the Respondent thereby breached any, or all, of:-

- a) Principle 2 of the Principles;
- b) Principle 4 of the Principles;
- c) Principle 6 of the Principles;
- d) Principle 8 of the Principles;
- e) Principle 10 of the Principles;
- f) Outcomes 7.2 and 10.1 of the SCC;
- g) Rules 1.1, 1.2, 14.1, 17.2, 17.3, 21.1, 21.2, 29.1, 29.2, 29.9, 29.11, 29.13, 29.17, 29.18 and 32A.1 of the SAR.

6. From 23 January 2018 to the date of the Rule 5 statement, the Respondent has failed to comply with his regulatory obligations in that he has failed to co-operate with the SRA and deal with the SRA in an open and transparent manner including failing to provide information following a lawful request to do so.

He thereby breached any, or all, of:

- a) Principle 2 of the Principles;
- b) Principle 6 of the Principles;
- c) Principle 7 of the Principles;
- d) Outcome 7.2 of the SCC.

In addition, allegations 1 to 5 were advanced on the basis that the Respondent's conduct was dishonest. Dishonesty was alleged as an aggravating feature of the Respondent's misconduct but was not an essential ingredient in proving the allegations.

Documents

Applicant:

- Application and Rule 5 Statement with exhibit "KD1" dated 10 April 2019
- Witness Statement of Jack Baraczewski with exhibit "JB1" and "JB2" dated 18 July 2019
- Witness Statement of Kate Dixon with exhibit "KD2" dated 13 June 2019
- Witness Statement of Ms A-B dated 12 July 2019 with exhibits "TA1" and "TA2"
- First Witness Statement of Manisha Knights with exhibits "1" to "21" dated 23 August 2018
- Second Witness Statement of Manisha Knights with exhibits "MK22" to "MK27" dated 11 July 2019.
- Witness Statement of Hesham Puri with exhibit "HP1" dated 4 July 2019
- Witness statement of Mr A with exhibits "GDA1" to "GDA10" dated 21 March 2018
- Schedules of Costs dated 10 April 2019, 14 June 2019 and 19 July 2019

Respondent:

The Respondent did not engage with the proceedings and did not file any documents.

Preliminary Matter

7. Application to Proceed in Absence

The Applicant's Application

- 7.1 Mr Bullock applied to proceed in the Respondent's absence. He relied on General Medical Council v Adeogba [2016] EWCA Civ 162.
- 7.2 The Rule 5 statement in this matter was dated 10 April 2019. On 15 April 2019, following an application from the Applicant, a Division of the Tribunal directed that service be made by email to a specified Hotmail address as it was understood that the Respondent was living at an unknown address in Dubai. Standard Directions were served by encrypted email which directed that the Respondent file and serve his Answer to the Applicant's Rule 5 Statement. The Respondent did not comply with this deadline.
- 7.3 A Case Management Hearing ("CMH") by telephone was held on 6 June 2019. The Applicant set out details of steps taken to try to contact the Respondent, none of which had met with success. The Tribunal was concerned that there was no positive indication that the Respondent had read the documents served on him and directed that the Applicant provide a chronology of the attempts made to locate the Respondent. The Applicant provided a signed witness statement from Ms Dixon, dated 13 June 2019 setting out the steps taken to locate the Respondent in the UK.
- 7.4 Ms Dixon stated that the Applicant's IT team had informed her that it was not possible to receive a 'read receipt' from the email address which was being used, but that delivery to the mailbox had been confirmed. There was a further CMH on 21 June 2019. At that hearing the Applicant accepted that other than the fact that confirmation of delivery had been received, the Applicant had no positive evidence that the Respondent had read any of the material served upon him.
- 7.5 On 21 June 2019 the Tribunal was satisfied that extensive efforts had been made to find alternative postal or email addresses for the Respondent, without success. The Tribunal noted that there had been no engagement by the Respondent with the proceedings to date and no positive indication that he had read the documents served on him via email. Since that CMH the Applicant had emailed the Respondent on eight separate occasions. As a solicitor the Respondent was required to keep the details that the Applicant had for him up to date.
- 7.6 The Tribunal had before it a witness statement dated 18 July 2019 from Mr Baracewski who is an Information Governance Officer employed by the Applicant. His evidence was that within the Applicant's email archiving system there was the facility to search in appropriate circumstances for any email sent by the Applicant and any email received by the Applicant. He had undertaken a search for any incoming emails received from the Hotmail address referred to above and another email address that the Applicant had for the Respondent.
- 7.7 The search covered any email sent to the SRA domain ("@sra.org.uk"), and included emails deleted from individual user accounts. The timescale for the search was set as "eternal", but in practice the search reviewed seven years of archived messages. The search returned five incoming emails all from the Hotmail address referred to above.
- 7.8 There was no evidence that emails had not been received and Mr Bullock submitted that the Tribunal could be satisfied that the Respondent had been properly served.

- 7.9 Mr Bullock invited the Tribunal to proceed in the Respondent's absence. He submitted that the Respondent had voluntarily absented himself. He had not engaged with the proceedings and there was no evidence that if the hearing was adjourned the Respondent would engage and attend the adjourned hearing. His whereabouts were not known.

The Tribunal's Decision

- 7.10 The Tribunal retired to consider the Applicant's application to proceed in the Respondent's absence. It considered the guidance in Adeogba which applied R v Hayward, [2001] EWCA Crim 168 and R v Jones [2002] UKHL 5 to regulatory proceedings. The starting point was that a Respondent had a right, in general, to be present at the hearing of allegations made against him. However, the Tribunal, had a discretion to proceed with the hearing in the absence of a Respondent but that discretion had to be exercised with great care and it was only in rare and exceptional circumstances that it should be exercised in favour of the hearing continuing in the absence of the Respondent. In deciding whether to proceed in the Respondent's absence fairness to the Respondent was a prime consideration, but fairness to the Applicant should also be considered.
- 7.11 The Tribunal had to take into account all the relevant circumstances including (i) the nature of the Respondent's behaviour and whether he had deliberately and voluntarily absented himself from the hearing, thereby waiving his right to attend; (ii) whether an adjournment would be likely to secure the Respondent's attendance; (iii) the delay caused by the length of any potential adjournment; (iv) the general public interest and the interest of witnesses and victims that the hearing should take place within a reasonable time of the events to which it related; (v) as was consistent with the judgment in Adeogba, the decision should be made in the context of the Tribunal's duty to protect the public and bearing in mind that the Respondent had a responsibility to co-operate with his regulator.
- 7.12 The Tribunal was satisfied that the Respondent had been properly served. The Respondent had not complied with the Tribunal's directions and, if the case was adjourned, there was no evidence to suggest that the Respondent would attend the adjourned hearing.
- 7.13 Rule 16(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 states: "If the Tribunal is satisfied that notice of the hearing was served on the respondent in accordance with these Rules, the Tribunal shall have power to hear and determine an application notwithstanding that the Respondent fails to attend in person or is not represented at the hearing." The Tribunal was satisfied that notice of the hearing was served on the Respondent. The Respondent had voluntarily absented himself in that he had not engaged with any part of the process. The Tribunal decided to exercise its power to proceed in the Respondent's absence. The Respondent was facing serious allegations including dishonesty and it was in the public interest to proceed.

8. Application to amend the Rule 5 Statement

The Applicant's Application

- 8.1 Mr Bullock was not the author of the Rule 5 Statement. He accepted at the outset of the hearing that the Rule 5 Statement as pleaded was far from satisfactory. He acknowledged that it should not have been sent to the Tribunal in the form it had been and told the Tribunal that lessons had been learnt. Mr Bullock apologised to the Tribunal.
- 8.2 Given the state of the Rule 5 document Mr Bullock applied to withdraw allegation 4.2 in any event. The Applicant accepted that it had not adduced evidence to show that the Respondent did not take steps to check his clients' entitlement to Criminal Legal Aid; nor had it adduced evidence of their entitlement to Legal Aid funding.
- 8.3 He also applied to amend the Rule 5 Statement by:
- Deleting the words "...into his personal bank account..." and "...which he acted for purportedly under the auspices of the Firm and..." from Allegation 1;
 - Deleting paragraph 80 (and any other paragraphs where it is alleged that the clients who are the subject of allegation 1 were not clients of the Firm);
 - Making any further and consequential amendments which might be necessary in light of these proposed amendments.
- 8.4 Mr Bullock had notified the Respondent (by email) of an application to amend the Rule 5 on the previous working day. He had not received a response.
- 8.5 There was no evidence that the payments had been paid into the Respondent's personal bank account. What was known was that the account in question was not an account of the Firm and was not the account into which the Respondent was paid. There was a difficulty with the wording "which he acted for purportedly under the auspices of the Firm." The fact was that the Respondent was doing the work for the clients without the Firm's knowledge. The Applicant acknowledged that if the Respondent had told the clients that he worked for the Firm and they believed that they were instructing the Firm then it could not be maintained that he was not acting under the auspices of the Firm.
- 8.6 If the Tribunal was with Mr Bullock in respect of the above amendment he applied to withdraw allegations 5.2 and 5.3 on the basis that there was no evidence about the accounting systems of the Firm before the Tribunal.
- 8.7 If the Tribunal was not minded to grant the application to amend Mr Bullock applied to withdraw allegations 1 and 5. The Applicant accepted that it could not succeed upon these allegations as they were formulated.
- 8.8 During the course of the hearing Mr Bullock also applied to withdraw the alleged breaches of Outcomes 2.1 and 2.2 of the SCC in allegation 2. Outcome 2.1 states "you do not discriminate unlawfully, or victimise or harass anyone, in the course of your professional dealings" and Outcome 2.2 refers to "providing employees and managers

with training and information about complying with equality and diversity requirements". Outcome 2.2 was more applicable to a firm than the Respondent as an individual and there was no evidence that the Respondent's conduct amounted to victimisation or harassment of Mr A.

The Tribunal's Decision

- 8.9 The Tribunal was troubled by the position it found itself in. The underlying actions that had resulted in these proceedings were on the face of it quite straightforward. If the Tribunal did not allow the Applicant to amend allegation 1 then the allegation had to be withdrawn as the Applicant accepted that it could not be proved as drafted. This was entirely unacceptable. For any allegation to be brought the Applicant should be sure that there was an arguable case as the allegation was worded. In this case nothing had changed since the Rule 5 Statement had been drafted and the irresistible inference was that the Rule 5 as submitted to the Tribunal was in fact defective.
- 8.10 Balanced against the poor drafting was the alleged misconduct and the serious nature of that misconduct. If allegation 1 was withdrawn then there was no allegation before the Tribunal specifically in regard to the Respondent receiving monies from clients without the knowledge of the Firm.
- 8.11 The Respondent was not present. He had been emailed by the Applicant to make him aware of the application to amend the Rule 5. It was not known if he had read that email. In any event even if he had done so the proximity of the notification to the hearing was of concern. The need to amend the Rule 5 Statement must have been obvious for some time. The Respondent had a right to know the case against him and also had a right to a fair trial.
- 8.12 In his absence the Tribunal could not permit an allegation to be amended so that the Applicant could prove that allegation in circumstances where the Applicant accepted that it could not prove the allegation as drafted.
- 8.13 The Tribunal therefore refused the application to amend allegation 1 and granted the Applicant leave to withdraw allegations 1 and 5 in their entirety.
- 8.14 The Tribunal also gave the Applicant leave to withdraw allegation 4.2 and the alleged breaches of Outcomes 2.1 and 2.2 of the SCC.
- 8.15 Having announced its decision the Tribunal allowed Mr Bullock a period of time to prepare a revised Rule 5 Statement which contained the remaining allegations and facts relied upon. There was no new evidence within this document, however its production meant that the Tribunal was clear as to the submissions and evidence relied on in relation to each allegation. Notably the Rule 5 was reduced from 40 pages to 19 pages.

Factual Background

9. The Respondent was born in May 1985. The Respondent was admitted to the Roll of Solicitors on 2 September 2013. The Respondent was admitted with Higher Rights of Audience (Criminal) from the same date. At the date of the hearing the Respondent's

name remained on the Roll of Solicitors but he did not hold a current practising Certificate.

10. The Respondent sat the required examinations for the Law Society Criminal Litigation Accredited Members (“the Scheme”) and was accredited under the Scheme. Accreditation under the Scheme is required for those solicitors who wish to work on matters funded under a Legal Aid contract or those matters which are funded by the Legal Aid Agency on a standalone basis. This includes the provision of advice to detained persons at a police station or as a duty solicitor at HM Courts.
11. The Respondent was employed by the Firm from 2 September 2013 until the disciplinary meeting on 23 January 2018. During his employment with the Firm, the Respondent was employed as a Solicitor-Advocate reporting to a Director of the Firm. As part of the Respondent’s duties he was a Duty Solicitor for several police stations. These police stations varied depending upon which of the geographic areas of the Duty Solicitor scheme the Respondent was attached. The Magistrates Court and Youth Courts at which the Respondent appeared were in and around the areas of London, Bedfordshire and Northamptonshire.
12. A letter of complaint, dated 19 January 2018, from Mr A was received by the Directors of the Firm. The complaint concerned the Respondent’s service when representing Mr A at a criminal trial in December 2017. Following receipt of the letter on 23 January 2018, the Directors commenced an investigation into the Respondent’s conduct. As a result of these enquiries, a disciplinary meeting was convened on 23 January 2018. The Respondent accepted at the meeting that he had represented Mr A at his criminal trial and that he had taken money from him for services that he provided through the auspices of the Firm.
13. At the end of that meeting, the Respondent stated that: “I know where this compliant is heading. I resign now.” (sic). Owing to the nature of the admissions made by the Respondent in the meeting, and the outcome of the initial internal investigation process, Ms. Manisha Knights, who was both the Head of Compliance and Legal Practice and Head of Finance and Administration for the Firm made a report to the SRA. Thereafter, the Firm continued to investigate the conduct of the Respondent. The examples provided by the Firm had only come to light because of either a complaint or direct contact from former clients.

Witnesses

14. The written evidence 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. The Tribunal did not hear any oral evidence. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

Findings of Fact and Law

15. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent’s rights to a fair trial and to respect for his

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

16. **Allegation 2 - The Respondent repeatedly contacted Mr A to try to persuade him to continue to use his services, despite being informed by Mr A that he no longer wished to retain the Respondent as his representative; and the Respondent attempted to persuade Mr A to drop his service complaint to the Firm, offering Mr A money as an inducement to do so. The Respondent thereby breached any, or all, of Principle 2, Principle 4, Principle 5 and Principle 6 of the Principles.**

The Applicant's Case

- 16.1 Mr A was arrested on 28 August 2017 and charged with actual bodily harm. Mr A's daughter is Ms A-B. In a witness statement dated 12 July 2019 Ms A-B explained that she first met the Respondent when she went with her father to meet a solicitor soon after her father's arrest.
- 16.2 Near the end of the meeting fees were discussed. Ms A-B's evidence was that the Respondent told her and her father that his/the Firm's fees would be £2,400 "all in" and that would include any pre-trial work that his colleagues would be working on. After the meeting, Mr A and Ms A-B decided to use the Respondent/Firm to represent Mr A in his case.
- 16.3 In his witness statement Mr A explained that at his first meeting with the Respondent he had asked about how much it would cost him and the Respondent had said £2,400 and provided Mr A with his business card. Mr A wrote this figure on the back. Mr A and the Respondent discussed how payment would be made to the Respondent and he said he would want the money as soon as possible. The Respondent said he would text Mr A the bank account details to which payment should be made. The details he provided were for a Barclays bank account, Sort Code 2*-*-*2 Account number 7*****2. Ms A-B made two transfers to this account. She transferred £2,000 on 11 September 2017 and the other £400 on 12 September 2017.
- 16.4 Mr A's evidence was that he did not have any evidence that the bank account belonged to the Respondent but when he went to Barclays Bank to try and get his money back, the lady he saw at Barclays Bank confirmed that the account the payments went into belonged to the Respondent.
- 16.5 Mr A received a client care letter dated 4 September 2017. On 18 September 2017 the Respondent represented him at Court. On 4 December 2017 in response to an enquiry from the court, the Respondent informed VW (Personal Assistant to the Directors) that the Firm was not acting for Mr A. The Respondent told VW that he would ring the court back to let them know the Firm was not acting. The court were contacted by telephone and the court record indicated that the Respondent attended the above trial and represented Mr A.
- 16.6 Mr A's trial was on 5 December 2017. On 5 December 2017, the Respondent had booked a day's holiday from work. On the same day he represented Mr A at a Magistrates Court at a fully contested hearing. According to Ms A-B the Respondent

arrived at Court over half an hour late and did not really communicate with Mr A and Ms A-B much before going into the Court room.

- 16.7 Mr A reported that at the start of the hearing the Respondent sought to have key evidence included where he had missed the deadline to submit this documentation under the agreed directions for the matter. Following his conviction Mr A asserted that he was not informed of his right to appeal.
- 16.8 Mr A was convicted, after which the Respondent was apologetic but tried to reassure Mr A and Ms A-B about the likely sentencing. Mr A's evidence was that he was devastated at the outcome. The Respondent and Mr A had a text exchange after the hearing. The Respondent told Mr A that he would not be able to deal with the sentencing before Christmas due to another Court case he was dealing with, so it was set for the New Year, 10 January 2018. Before the sentencing hearing, Mr A stated that the Respondent kept trying to contact him.
- 16.9 Mr A's account was that on 5 January 2018 the Respondent sent Mr A a text asking Mr A to call him. The Respondent sent an e-mail to Mr A's daughter on 6 January 2018. On 8 January 2018, the Respondent sent Mr A another text asking me to call the Respondent as soon as possible as he needed to know if Mr A still wanted him to represent him at the sentencing hearing. Mr A replied no thank you. The next message from the Respondent asked if Mr A had representation for the hearing and asked Mr A to make contact by telephone. Mr A asked for the Respondent to cease to contact him.
- 16.10 The Respondent called Mr A. Mr A could not recall the exact date but it was the day before his meeting with his Parole Officer, The Respondent stressed that he would need a further £1,200 for the sentencing hearing. Mr A questioned this, as the Respondent had told Mr A at the first meeting that the cost would be £2,400 for everything. Mr A thought at the time, something was not right. Mr A made the decision to represent himself at the Sentencing Hearing.
- 16.11 Parallel to these events, Mr A stated in his letter of complaint dated 19 January 2018, that on 8 January 2018 the Respondent contacted him by text message and apologised for not being more involved in his case. The Respondent in this course of contact apparently mentioned to Mr A that there had been a death in the Respondent's family (which Mr A subsequently found was untrue). Mr A informed the Firm in his letter that the Respondent only provided this justification for his conduct in Mr A's case after Mr A declined to continue to use the Respondent's services for his sentencing hearing.
- 16.12 As well as contacting Mr A directly, on 6 January 2018, the Respondent emailed Ms A-B, trying to get Mr A to contact him. Ms A-B also received some other emails from the Respondent chasing further work/payment, which she deleted as the whole matter was upsetting her.
- 16.13 According to Ms A-B, she and her father at all times believed that they were instructing (and had paid) the Respondent as a solicitor of the Firm. Ms A-B's witness statement stated that she was "shocked and sickened by the actions of Mr Saeed, and when I found out that MK Law said that I had not actually paid any money to them, as I had respected Mr Saeed as he seemed so professional. After what happened with Mr Saeed, it would

take a lot for me to trust someone from the legal profession again, as he seemed so convincing and trustworthy in the first place, and made us feel that everything would be fine”.

- 16.14 Mr A said that he reflected on the matter and took the decision to complain about the standard of service that he received from the Respondent. The complaint letter (dated 19 January 2018) was received by the Firm on 22 January 2018. An internal investigation was commenced immediately.
- 16.15 On 23 January 2018, the Respondent contacted Mr A with the aim of persuading him to drop his complaint and apparently, according to Mr A offered him a financial inducement to do so.
- 16.16 In a telephone call with a member of the Investigation and Supervision Team on 26 January 2018, Ms Knights informed the Applicant that she believed that the Respondent was aware that Mr A was about to complain as he telephoned two of the directors of the Firm to state he wanted to leave with immediate effect on Sunday 21 January 2018.
- 16.17 The Firm provided a chain of emails to the Applicant. These showed that the Respondent had requested payment to a bank account that was neither the client account of the Firm nor his usual bank account into which his salary was credited. The contact number provided was not one which belonged to the Firm.
- 16.18 Mr Puri, in his witness statement dated 4 July 2019, stated that on 23 January 2018 he held a disciplinary meeting with the Respondent in relation to the complaint that the Firm had received from Mr A. The meeting was with the Respondent and was also attended by one of the other directors, Mr Barry, and the practice manager of the Old Street branch office, Mr Jackson. Mr Jackson took a contemporaneous note of the meeting, which was then typed up.
- 16.19 The Respondent admitted at the disciplinary meeting that he had taken substantial direct payments from Mr A and had taken a day off work to represent him. The Respondent had not opened a file for the Magistrates Court proceedings through the Firm in relation to Mr A’s matter. The Firm had no record of the substantive Court proceedings and had received no payment in relation to them to its account(s).
- 16.20 In the course of the disciplinary meeting Mr Barry told the Respondent that there could only be one outcome to the investigation. At that meeting Mr Puri made clear to the Respondent that he would be leaving the Firm after the meeting. The Respondent, who had previously resigned from the Firm and was due to leave in mid-February, acknowledged that he knew that his position in the Firm was over. He was recorded as stating “I’m going to get struck off.” At the end of the meeting the Respondent handed over the Firm’s property and left the premises straightaway.
- 16.21 Also on 23 January 2018 Mr A received a call on his mobile from an unknown number. He answered the call and was surprised it was the Respondent. The Respondent said he needed to speak with Mr A and that he had left the Firm two weeks before and he had left because the Firm were “bad people”.

- 16.22 Mr A asked the Respondent when he wanted to meet him. Mr A arranged to meet the Respondent at a pub on the same day. When the Respondent arrived, Mr A said that he had a very different manner to him from when he first met the Respondent. The Respondent told Mr A that he had another job at another firm of solicitors and that Mr A should stop his complaint as he needed a reference from the Firm.
- 16.23 The Respondent tried to dissuade Mr A from pursuing his complaint and offered to repay Mr A the £2,400 and £285 fine received. The Respondent said the Firm would destroy Mr A financially with their costs. Mr A told the Respondent it was not about the money it was about his name. The Respondent said he would give Mr A until the next day to decide.
- 16.24 The Respondent told Mr A not to speak to the Firm until he had spoken to him first. He stated that the Respondent had made him think it was the Firm who were in the wrong. The following day, the Respondent called Mr A. Mr A told him he was going to meet him as arranged, but the Respondent said that there was no arrangement to meet and that he was taking legal action against Mr A for Blackmail and that the Police would be knocking on his door to arrest him.
- 16.25 Mr A told the Respondent that it was the Respondent who had blackmailed Mr A by trying to stop Mr A pursuing his complaint about Mr A. The Respondent said “who are they going to believe, a convicted criminal or a solicitor?” A family member could hear the conversation and told Mr A to terminate the call. The family member immediately rang the Firm who told her that the Respondent had been working outside of the Firm without their knowledge. Mr A said that he was in utter shock and disbelief and collapsed. His doctor was contacted.
- 16.26 Mr A’s evidence was that he had left his job prior to all this happening, due to extreme stress and significant sleep deprivation. He had sought help from CRISIS. The situation with the Respondent caused him immense emotional distress, turmoil and financial hardship. Mr A considered that the Respondent had not acted in Mr A’s best interest and had neglected to deal with Mr A’s case properly which resulted in him being convicted.
- 16.27 Ms Knights’ evidence was that in response to a written complaint received from Mr A, an internal investigation was immediately undertaken. As far as the Firm was concerned it was not acting for Mr A, had no instructions to act and were not in funds to do so.

Breach of Principle 2 of the Principles

- 16.28 Mr Bullock submitted that the test for “integrity” in the context of disciplinary proceedings against solicitors was as set out by the Court of Appeal in Wingate v Solicitors Regulation Authority [2018] 1 WLR 3969. The Court held that integrity was “a broader concept than honesty” and that it was “a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members.” The Court added that: “Integrity connotes adherence to the ethical standards of one’s own profession. That involves more than mere honesty.”

16.29 The Applicant submitted that it was not appropriate behaviour for a solicitor to repeatedly contact a former client when the client had made it clear that they no longer wished to retain their services.

16.30 Copies of text messages between Mr A and the Respondent were provided by Mr A. The messages were undated, but appeared to be part of an exchange discussing repaying Mr A. Three messages, all timed at 15:11, stated:-

Message 1: “Call me when your available as I have just left” (sic.)

Message 2: “I have left you a voicemail”

Message 3: “You are a bad man. You kniw how ill ive been and you said I would have £1.5k to drop my compliant that is less than I paid you in tge first place. I think you have pushed me over the edge” (sic.)

16.31 The Applicant submitted that the Respondent was seeking to conceal his misconduct by offering a payment to Mr A. In return for the payment, the Respondent asked Mr A to withdraw his service complaint from the Firm. It was not appropriate behaviour for a solicitor to offer a financial inducement to a former client to drop a complaint. The Respondent only offered back part of the fees that he had received from Mr A to represent him at the Magistrates Court. According to the Applicant, the Respondent was only offering the money because he had recognised in his disciplinary meeting the consequences of his misconduct and was seeking to avert them. By these actions the Respondent had failed to behave with integrity.

Breach of Principle 4 and Principle 5 of the SRA Principles 2011

16.32 The Applicant submitted that the Respondent’s behaviour was also a failure to provide a proper standard of service to Mr A and that he did not act in Mr A’s best interests. The Applicant submitted that the Respondent was aware, or in the alternative ought to have been aware, of the vulnerability of Mr A. The Applicant noted that Mr A was at the time of his arrest absent from work due to a mental health condition.

Breach of Principle 6 of the SRA Principles 2011

16.33 The Applicant submitted that the Respondent’s behaviour was also such that the public would lose confidence in the profession. Repeatedly making contact with a former client to induce them to accept your services for an additional fee to the original quote is not behaviour that the public would expect of a solicitor.

16.34 Further, the Applicant submitted that the public would be particularly concerned by the fact that Mr A had a mental health condition and was therefore vulnerable. Mr A explained in his witness statement the impact of the series of events. The public would take a dim view of any scenario where a vulnerable client was being pressurised to withdraw a complaint in return for a financial inducement.

- 16.35 The Applicant also noted that the financial inducement offered was not even the sum that was paid by Mr A to the Respondent. When it came to the offer of an inducement to drop his complaint, the Respondent did not offer to reimburse the full amount taken and gave no explanation as to how he had calculated the offer.
- 16.36 The Respondent was in breach of Principle 6 of the Principles in that he had failed to behave in a way that maintained the trust that the public placed in the Respondent and in the in the provision of legal services.

The Respondent's Case

- 16.37 The Respondent had not engaged with the proceedings. The Tribunal proceeded on the basis that the allegation was denied.

The Tribunal's Findings

- 16.38 The Tribunal found that the Respondent repeatedly contacted Mr A to try to persuade him to continue to use his services. He contacted Mr A via text and by way of phone call. In addition he contacted Ms A-B to ask her to get Mr A to contact him.
- 16.39 The Tribunal had seen the text message that told the Respondent that Mr A did not want him to represent him at the hearing. It was clear that the Respondent had been informed by Mr A that he no longer wished to retain the Respondent as his representative.
- 16.40 The Tribunal had no evidence from the Respondent about what he may or may not have done in response to the service complaint that Mr A had brought. The Tribunal did have a detailed witness statement from Mr A about the contact that the Respondent had made with him after the complaint and there was some documentary evidence that corroborated what Mr A said. The Tribunal was mindful that Mr A had a criminal conviction, however his witness statement was clear and credible.
- 16.41 Mr A's evidence was that the Respondent had attempted to persuade Mr A to drop his service complaint to the Firm and that he had offered Mr A money as an inducement to do so. There was some confusion about the sum of money that was offered however this did not detract from the fact that money was offered by the Respondent as an inducement for the dropping of the complaint.
- 16.42 Having found the factual basis of the allegation proved the Tribunal considered whether the Respondent breached any, or all, of Principle 2, Principle 4, Principle 5 and Principle 6 of the Principles.
- 16.43 Principle 2 requires a solicitor to act with integrity. As set out in Wingate acting with integrity connotes adherence to the ethical standards of one's own profession. The Respondent had sought to persuade Mr A to drop his complaint. The Tribunal found that the Respondent had not adhered to the ethical standards of the solicitors' profession. A solicitor of integrity would not seek to persuade a client (or former client) to drop his complaint. The Respondent had lacked integrity in breach of Principle 2.

- 16.44 Principle 4 required the Respondent to act in the best interests of each client. This meant he was required to act in Mr A's best interests. A solicitor acting in their client's best interests would not seek to persuade a client (or former client) to drop his complaint. However this was precisely what the Respondent had done. The Respondent had not acted in Mr A's interests and was in breach of Principle 4.
- 16.45 To comply with Principle 5 the Respondent had to provide a proper standard of service to Mr A as his client. Both by repeatedly contacting Mr A (even when Mr A had told the Respondent that he did not want him to represent him) and by trying to persuade Mr A to drop his complaint the Respondent had not provided a proper standard of service and was in breach of Principle 5.
- 16.46 Principle 6 required the Respondent to behave in a way that maintained the trust the public placed in him and in the provision of legal services. Having found the factual basis of allegation 2 proved, it was clear that the Respondent had not behaved in a way that maintained the trust that the public placed in him and in the provision of legal services. The Respondent's behaviour was aimed at protecting his own position by trying to make the complaint go away. The Respondent was in breach of Principle 6.
- 16.47 The Tribunal found allegation 2 proved in full to the requisite standard of proof, namely beyond reasonable doubt.
17. **Allegation 3 – The Respondent prepared a settlement agreement for LD by which he alleged that a victim named “JE” would be compensated when in fact it was a device for the Respondent to benefit personally as the Metropolitan Police confirmed that there was no victim named “JE” in their investigation against LD. The Respondent thereby breached any, or all, of Principle 2, Principle 4, Principle 5, Principle 6 and Principle 10 of the Principles.**
- 17.1 The Respondent first acted for LD in May 2014. In July 2016, LD's father contacted the Respondent to act again for his son as the Police had indicated that they wished to speak to him in connection with several allegations of criminal damage. In response, the Respondent apparently agreed to organise a: “caution plus 3” interview and stated that he would represent LD on his return from holiday on 31 August 2016.
- 17.2 In return for the arranged representation, LD's father transferred £1,200.00 to the following account: Sort Code 2*-**-*2 Account number 7*****2. That account was not an account in the name of the Firm. The Respondent represented LD as planned on 31 August 2016. No further action was taken against LD by the Police after the interview of 31 August 2016.
- 17.3 Further correspondence on the file stated that to avoid any civil proceedings, LD should enter into a settlement agreement to pay for the damages. There was a reference to there being another party involved in the alleged criminal activity but the Respondent was not known to have represented that party. There was a settlement agreement on the file. The agreement was signed and dated 7 September 2016. On 13 September 2016, LD's father emailed the Respondent to confirm that he had transferred the £3,800.00 requested and asked for a receipted invoice. This sum was paid to the account detailed above. The payment was made (half by LD's father and half by the parents of another boy). A receipted invoice was provided to the family on 14 September 2016.

- 17.4 Ms Knights' evidence was that having looked at the emails and the correspondence on the file it appeared that the Respondent had drafted a fictional "agreement in principle". It was unclear where the value of the damages (£3,800) came from or where the name "JE" originated, as this information was not disclosed in the police station paperwork. Ms Knights' described the agreement in principle as poorly drafted and making no sense as it referred to monies received (though they had not been transferred) and was not countersigned by LD. She said that the receipted invoice was provided on an incorrect and out of date pro forma for the Firm.
- 17.5 The Firm stated that, in December 2017, LD's father contacted the Respondent again to represent LD as the Police wished to interview him about another incident. It was agreed that the Respondent would represent LD on 14 December 2017 at Lewisham Police Station and once again the agreed fee was in the sum of £1,200.00 including VAT. LD's father made the transfer on 11 December 2017 to the account above. In total, LD's father paid in the sum of £6,200.00.
- 17.6 Ms Knights made further enquiries to see if it was possible to establish the veracity of the alleged victim's details that were the subject of the settlement agreement in August to September 2016. She received an email from the Police Officer with conduct of the investigation at the Metropolitan Police against LD which confirmed that they had investigated matters where LD was a suspect and that none of the matters in which LD was suspected to be involved had a victim with the name of the alleged victim in the settlement agreement ("JE"). The officer also stated that he had not provided the Respondent with any contact details for any victims so as to organise reparations for any losses. The officer said that he had checked his emails prior to responding to Ms Knights.
- 17.7 Ms Knights reported that after the representation concluded the Respondent then, as previously, also submitted an attendance note to enable the fixed interview fee to be claimed from the Legal Aid Agency. As with the previous instance, Ms Knights explained that it was not brought to the Legal Aid Agency's attention that a fee of £1,200.00 including VAT had already been received by the Respondent.
- 17.8 The misconduct came to light because on 23 February 2018 LD's father contacted the Firm as he was returning a call from the Respondent. Based on her telephone conversation with him Ms Knights arranged to see LD's father.
- 17.9 LD's father made three transfers (total sum of £6,200) to the account. Ms Knights explained that when she told LD and his father the outcome of her enquiries with the police they were shocked that they had been the victim and fallen prey to such a fraudster. Ms Knights personally felt that the Respondent was a danger to vulnerable clients.
- 17.10 The Applicant drew attention to a noted similarity between the handwriting of the Respondent and "JE's" handwriting. However Mr Bullock accepted that there was no evidence to show that "JE's" signature on the agreement was in the Respondent's handwriting.

Breach of Principle 2

- 17.11 The Applicant submitted that the preparation of a settlement agreement, when the Respondent knew or reasonably ought to have known that the ‘victim’ named on the document was not verified, lacked integrity. The Applicant drew attention to the fact that the Metropolitan Police had confirmed that the Respondent made no contact with them to ascertain the details of any of the victims in this matter. The Applicant submitted that the Respondent could not have been drafting the agreement from a genuine premise.
- 17.12 Further, the Applicant referred to a chain of emails which showed that LD and his father accepted the settlement agreement as being good advice. Whilst any active criminal proceedings were no bar to civil proceedings, it was submitted that this advice was deliberate in order to enable the Respondent to profit from LD’s youth and inexperience as well as his father’s natural instinct to protect his son from further formal action.
- 17.13 There was no evidence in the correspondence that the figure for payment under the purported Settlement Agreement had any basis upon the facts of the case. The Metropolitan Police had confirmed that they have no record of a “JE” requiring compensation. The only logical conclusion was that the figure was of the Respondent’s creation. The Applicant submitted that the Respondent had failed to behave with integrity.

Breach of Principle 4 and Principle 5 of the SRA Principles 2011

- 17.14 It was submitted that the behaviour that lacked integrity was also demonstrative of failing to provide a proper standard of service to clients and failing to act in their best interests. The Applicant submitted that the fabrication of the victim fell below the expected standard of client care by a solicitor. The Applicant further submitted that the financial gain from the client was significant. The fee charged for this purported agreement was in the sum of £3,800 and appeared to be the largest single sum charged by the Respondent in the course of the alleged misconduct. This demonstrated a failure to act in the client’s interests and a failure to provide an appropriate standard of service.

Breach of Principle 6 of the SRA Principles 2011

- 17.15 In taking the events in this allegation in their totality, it was the Applicant’s submission that the public would consider the profession had been brought into disrepute by the Respondent’s behaviour. Particularly, the Applicant submitted that the public would be most concerned by the creation of “JE” as a vehicle for personal gain.
- 17.16 The Applicant submitted that the public would be concerned by the fact that the Respondent took advantage of a younger man who was still being financially supported by his parents. The Applicant considered that the public would expect to be able to trust someone who works in the Youth Courts and on behalf of young people as the Respondent did during the course of his employment. The Respondent had failed to behave in a way that maintained the trust that the public placed in the Respondent and in the in the provision of legal services.

Breach of Principle 10 of the SRA Principles 2011

17.17 The Applicant submitted that, taking all of these events in their totality, the Respondent was not protecting client money and handling it appropriately when he directly received it for personal gain. In support of this, the Applicant referred to the creation of the ‘victim’ as a vehicle to receive a significant sum in professional fees. The Respondent had failed to protect client money and assets.

The Respondent’s Case

17.18 The Respondent had not engaged with the proceedings. The Tribunal proceeded on the basis that the allegation was denied.

The Tribunal’s Findings

17.19 On the evidence before it the Tribunal was sure that the Respondent had prepared a settlement agreement for LD by which he alleged that a victim named “JE” would be compensated. There was clear evidence that the agreement existed and there was evidence as to the terms of the purported agreement. There was evidence from the Metropolitan Police confirming that there was no victim named “JE” in their investigation against LD. The fact that there was no clear evidence that the Respondent had signed the document as if he was “JE” was irrelevant. Whoever had signed the document as “JE” it was clear that the Respondent had an integral role in the creation of and promotion of the purported settlement agreement. He had asked LD’s father for the money for the alleged settlement.

17.20 LD’s father had made a payment to an account specified by the Respondent. That payment was in the sum of £3,800. The payment was made on behalf of LD by his father and by the parent(s) of another person involved in the incident. The Respondent had not accounted to his employer for that money and nor was there any evidence that the money had in fact been paid to “JE”. The receipted invoice provided was on an out of date proforma.

17.21 The Tribunal carefully considered whether the settlement agreement could in fact be described as a device for the Respondent’s personal benefit. Other than the hearsay evidence provided by Mr A as to the name of the account holder there was no evidence that the bank account that the payment had been made into was the Respondent’s personal account. The Tribunal could not find that the Respondent received a direct pecuniary advantage from the payment of the £3,800 as there was no evidence of clear personal direct receipt. However the Tribunal was sure that the Respondent derived personal benefit from this payment. The payment was made into the account that the Respondent requested it to be made into. The payment was not made into the Firm’s client account. It was not necessary for the Tribunal to be able to identify the personal benefit, nor was it appropriate for the Tribunal to speculate as to what that benefit might be. It was sufficient for the Tribunal to be sure that the Respondent had benefited personally.

17.22 A solicitor of integrity did not make up a settlement agreement in respect of a fictional claimant in order to secure a personal benefit. The Respondent had lacked integrity. LD was the Respondent’s client. In behaving as he did the Respondent had clearly not acted

in LD's best interests. This was self-evident. Nor had the Respondent provided a proper standard of service to LD. Principle 6 required the Respondent to behave in a way that maintained the trust the public placed in him and in the provision of legal services. The Respondent had not behaved in a way that maintained the trust that the public placed in him and in the provision of legal services. The Respondent had obtained money from LD and that money had been paid on the basis that it was for the settlement of a civil claim that did not exist according to the available evidence. The Respondent had breached Principle 2, Principle 4, Principle 5 and Principle 6.

17.23 Principle 10 required the Respondent to protect client money and assets. By arranging for the monies to be paid in the first instance when not required for the purposes for which the money was requested, the Respondent did not protect client money. Further by requesting the money to be paid into an account other than the Firm's client account the Respondent did not protect client money. He had breached Principle 10.

17.24 The Tribunal found allegation 3 proved in full to the requisite standard of proof, namely beyond reasonable doubt.

18. **Allegation 4 (comprising of Allegations 4.1 – 4.3): From a date unknown, but at least since 31 August 2016, until or about 23 January 2018, the Respondent falsified legal and contractual documents in several matters by the following acts omissions: -**

4.1 The Respondent falsely claimed for Legal Aid funding for LD on 31 August 2016 and on an unknown date in December 2017 for two separate fixed interview fees when the Respondent knew or reasonably ought to have known that he had been personally remunerated on a private fee-paying basis;

4.3 The Respondent misused the Legal Aid Certificate for Mr PH on the file of Mr H when the Respondent knew or reasonably ought to have known that he had omitted to apply for Legal Aid in this matter for Mr H and as such was utilising this document a cover (sic) for his omission to make the appropriate funding application

4.4 The Respondent misled his employer that he was attending a video link appointment at Bromley Magistrates Court in the matter of Mr N to cover the fact that he was appearing for Mr H at a hearing in his matter.

In respect of Allegations 4.1 to 4.4, which could be taken as either individual incidents or in their totality to prove the Allegation, the Respondent thereby breached any, or all, of Principle 2 and Principle 6 of the Principles 2011

The Applicant's Case

Client LD - background

18.1 The Respondent represented LD on 31 August 2016 and submitted his attendance note which resulted in a Fixed Fee being claimed by the Firm from the Legal Aid Agency. The Respondent did not disclose to the Firm that he had taken £1,200 from the client.

The client was not aware that he was entitled to free and independent legal advice and representation and neither LD nor his father was aware that the case would be funded by legal aid. They were of the belief that they would have to fund the case and that the £1,200 was going to the Firm as £1,000 plus VAT.

- 18.2 In December 2017 LD's father contacted the Respondent and informed him that the police wanted to interview LD about another incident. The Respondent agreed to attend the interview on 14 December 2017 at the Police Station for an agreed fee of £1,200 which LD's father transferred to the same account to which he had made previous payments.
- 18.3 On 14 December 2017 the Respondent represented LD and once again submitted his attendance note which resulted in a Fixed Fee being claimed by the Firm from the Legal Aid Agency. The Respondent did not disclose to the Firm that he had taken £1,200 from the client. The client was not aware that he was entitled to free and independent legal advice and representation and neither LD nor his father were aware that the case would be funded by legal aid. They were of the belief that they would have to fund the case and that the £1,200 was going to the Firm as £1,000 plus VAT.

Allegations 4.3 and 4.4 Client Mr H - background

- 18.4 Mr H was represented at a Police Station. Mr H was initially bailed without a charge being laid and was then charged upon his return to the station in connection with his bail. Upon this return visit, Mr H was charged with the offences for which he was originally questioned.
- 18.5 Prior to the hearing on 26 July 2017 the Respondent had informed a colleague that Mr H did not qualify for legal aid and did not want to pay for his representation. On 25 July 2017, the Respondent emailed the Prosecution and requested the first appearance case papers for the hearing listed the following day, which was convened at Bromley Magistrates Court on 26 July 2017. Mr H appeared before the Magistrates Court on 26 July and the court record shows that "Mr Syed" had indeed represented him, this was in Ms Knights' opinion a misspelling of the Respondent's name.
- 18.6 Ms Knights had looked at the Firm's central diary for 26 July 2017. Her evidence was that the Respondent created a false diary entry for that date to enable him to attend Court on behalf of Mr H. The Respondent's diary stated that he was attending Bromley Magistrates Court for a video link appointment with a Mr N who was remanded at HMP Nottingham. However HMP Nottingham confirmed that no such appointment was organised between the Respondent and Mr N. There was no mention in the Respondent's work diary of him attending Mr H in Court on that day. Ms Knights' suggested that the Respondent did this because the Respondent was attending a regular court for the Firm and if he had been recognised by a colleague or contact, this would have given him a legitimate purpose for being in attendance.
- 18.7 On 26 July 2017 there were two further emails, one from the Respondent to Mr H after the hearing and attaching the case papers and a second email, from Mr H, confirming receipt and making it plain that they had met that day. Following the hearing on 26 July 2017, Mr H's case was sent to the Crown Court for a Plea and Trial Preparation

Hearing on 23 August 2017. This was in the diary and the Respondent represented Mr H. There were no further diary entries for Mr H until 15 November 2017.

- 18.8 The Respondent was granted legal aid in another matter, that of Mr PH, who had the same surname as Mr H. This legal aid certificate was granted on 19 October 2017 and was placed on Mr H's file, it was alleged, in order for it to appear as if he was entitled to Legal Aid funding and thus entitled to representation by the Respondent.
- 18.9 According to Ms Knights, the Respondent, at an undated point, informed his colleagues at the Firm that none of them should contact Mr H. It is not clear what, if any client care reason was provided for this decision.
- 18.10 Mr H's case was listed for 6 days. The Respondent attended all the trial dates. The case was adjourned for sentencing on 5 February 2018. As Mr H's sentencing hearing fell after the Respondent's departure from the Firm, it was attended by a Director of the Firm. It was only on 5 February 2018 that it transpired that there was no funding in place for Mr H via the Legal Aid Agency and the certificate on the file was erroneous.
- 18.11 Ms Knights' evidence was that, because the correct process had not been followed, the claims process that was necessary to reclaim the costs of representation from the Legal Aid Agency was not able to be actioned and accordingly the Firm lost revenue amounting to in the sum of £4,947.63 (excluding VAT). She said that the Respondent had given the Firm the impression that legal aid was in place and had covered this by placing the PH certificate onto the file so as to cover his tracks. Subsequent enquiries with the Legal Aid Agency confirmed that an application for legal aid was never made in this case.

Breach of Principle 2 of the SRA Principles 2011

- 18.12 The Respondent was expected to behave in an appropriate and professional manner towards potential clients, whether or not they were eligible for public funding; and in such a way as to be mindful of their vulnerability when facing the prospect of a criminal conviction with its attendant consequences.
- 18.13 The Applicant submitted that by applying for legal aid at the same time as receiving a transfer of monies to his own account the Respondent was not behaving in an appropriate way for a solicitor. Furthermore, the Applicant submitted that the Respondent's failure to apply for Legal Aid funding and his subsequent seeking to obscure this by placing on the file of the client another's Legal Aid funding certificate was also behaviour that lacked integrity.

Breach of Principle 6 of the SRA Principles 2011

- 18.14 The Applicant submitted that the public would find the creation of false and misleading client care documentation and other documentation would diminish the confidence of the public in the profession. The Respondent had failed to behave in a way that maintained the trust that the public placed in the Respondent and in the provision of legal services.

The Respondent's Case

18.15 The Respondent had not engaged with the proceedings. The Tribunal proceeded on the basis that the allegation was denied.

The Tribunal's Findings

18.16 Allegation 4.1

18.16.1 The allegation that the Tribunal had to consider was:

“From a date unknown, but at least since 31 August 2016, until or about 23 January 2018, the Respondent falsified legal and contractual documents in several matters by the following acts/omissions: the Respondent falsely claimed for Legal Aid funding for LD on 31 August 2016 and on an unknown date in December 2017 for two separate fixed interview fees when the Respondent knew or reasonably ought to have known that he had been personally remunerated on a private fee-paying basis.”

18.16.2 If satisfied of the factual basis the Tribunal then had to consider whether the individual incidents or their totality amounted to a breach of Principles 2 and/or 6.

18.16.3 The evidence before the Tribunal was that the Respondent had submitted attendance notes and that the submission of the attendance notes had resulted in the Firm claiming legal aid payments in relation to the two fixed fee interviews. There was no evidence before the Tribunal that the Respondent had falsely claimed legal aid funding in respect of LD. Further there was no evidence that the Respondent had falsified documents. He had produced and submitted attendance notes of two fixed fee interviews that had taken place.

18.16.4 The Tribunal acknowledge that there was nothing to show that the Respondent had informed the Firm that legal aid payments should not be claimed but that was not pleaded. The Tribunal accepted that the Respondent would have known that monies received from LD's father had not gone to the Firm

18.16.5 The Tribunal could not be sure, beyond reasonable doubt, that the factual basis of allegation 4.1 was proved. The alleged breaches of the Principles therefore fell away. Allegation 4.1 was not proved.

18.17 Allegation 4.3

18.17.1 The allegation that the Tribunal had to consider was:

“From a date unknown, but at least since 31 August 2016, until or about 23 January 2018, the Respondent falsified legal and contractual documents in several matters by the following acts/omissions: - the Respondent misused the Legal Aid Certificate for Mr PH on the file of Mr H when the Respondent knew or reasonably ought to have known

that he had omitted to apply for Legal Aid in this matter for Mr H and as such was utilising this document a cover (sic) for his omission to make the appropriate funding application.”

- 18.17.2 If satisfied of the factual basis the Tribunal then had to consider whether the individual incidents or their totality amounted to a breach of Principles 2 and/or 6.
- 18.17.3 There was no evidence before the Tribunal that Mr H was eligible for legal aid. Unless he was eligible for legal aid the Respondent would not have had to make an application for legal aid. Given this the Tribunal could not be sure that there had been any omission to apply for legal aid.
- 18.17.4 There was no evidence that the Respondent had misused the Legal Aid Certificate for Mr PH on the file of Mr H. The Tribunal did not doubt that the certificate for Mr PH was on Mr H’s file but there was no evidence that the Respondent had placed the certificate on the file and there was no evidence that he had done so to cover an omission to make the appropriate funding application.
- 18.17.5 The Tribunal could not be sure, beyond reasonable doubt, that the factual basis of allegation 4.3 was proved. The alleged breaches of the Principles therefore fell away. Allegation 4.3 was not proved.

18.18 Allegation 4.4

- 18.18.1 The allegation that the Tribunal had to consider was:

“From a date unknown, but at least since 31 August 2016, until or about 23 January 2018, the Respondent falsified legal and contractual documents in several matters by the following acts/omissions: - the Respondent misled his employer that he was attending a video link appointment at Bromley Magistrates Court in the matter of Mr N to cover the fact that he was appearing for Mr H at a hearing in his matter.”

- 18.18.2 If satisfied of the factual basis the Tribunal then had to consider whether the individual incidents or their totality amounted to a breach of Principles 2 and/or 6.
- 18.18.3 The Tribunal found that the Respondent had made the diary entry in relation to the video link appointment. The Tribunal found that the Respondent appeared for Mr H at a hearing on the same day. It was possible to infer that the video link appointment had been entered “to cover the fact” of the appearance but the Tribunal could not be sure on the evidence before it that the two were linked. Further the Tribunal could not be sure that the erroneous diary entry amounted to falsifying legal or contractual documents.
- 18.18.4 In light of the above, the Tribunal could not be sure, beyond reasonable doubt, that the factual basis of allegation 4.4 was proved. The alleged breaches of the Principles therefore fell away. Allegation 4.4 was not proved.

19. **Allegation 6: From 23 January 2018 to the date of the Rule 5 statement, the Respondent has failed to comply with his regulatory obligations in that he has failed to co-operate with the SRA and deal with the SRA in an open and transparent manner including failing to provide information following a lawful request to do so. He thereby breached any, or all, of Principle 2, Principle 6 and Principle 7 of the Principles**

Breach of Principle 2

- 19.1 The Applicant submitted that the Respondent knew that a solicitor with integrity would comply with their legal and ethical obligations to provide all the information required to facilitate an investigation into their conduct. In support of this, the Applicant referred to the letters that had been returned to sender and the fact that the Applicant needed to serve a s.44B Solicitors Act 1974 notice.
- 19.2 Further, it was submitted that the Respondent had deliberately avoided advising the Applicant of his updated correspondence address as a means of trying to avoid the investigatory process. In his remarks made in his disciplinary hearing on 23 January 2018, the Respondent made it clear that he fully understood the consequences of his actions as well as the likely course of action that the Applicant would take. The Respondent had failed to behave with integrity. The Respondent had been told that the Firm needed to raise his actions with the SRA immediately, he had asked whether there was a way round that and had been told there was not.

Breach of Principle 6 of the SRA Principles 2011:

- 19.3 The Applicant submitted that the public would expect that a solicitor would comply with an investigation into his conduct, particularly where he had recognised the impact of that conduct, which the Respondent had during the disciplinary meeting on 23 January 2018.
- 19.4 The public would expect that, if a legal and reasonable request for information was made of the Respondent, it would be his duty to comply and that to breach that duty would not be the conduct expected of a solicitor. The Respondent had failed to respond to lawful notices and requests for information. The Respondent had failed to behave in a way that maintained the trust that the public placed in him and in the provision of legal services.

Breach of Principle 7 of the SRA Principles 2011:

- 19.5 The Applicant submitted that the Respondent had failed to comply with both his legal and regulatory obligations for numerous reasons. The Respondent was obliged by virtue of his entry onto the Roll of Solicitors to comply with the requirement to keep his contact details up to date. The Applicant engaged an enquiry agent to establish the location of the Respondent. The Applicant had not been informed of an alternative address for the Respondent in the jurisdiction of England and Wales and his present whereabouts was not known. The Respondent had failed to respond to any correspondence from the Applicant which had been sent to his last known email address. The Applicant submitted that the Respondent was in breach of Principle 7 as

he had failed to comply with both his legal and regulatory obligations. Further he had not dealt with his regulator in an open, timely and co-operative manner.

The Respondent's Case

19.6 The Respondent had not engaged with the proceedings. The Tribunal proceeded on the basis that the allegation was denied.

The Tribunal's Findings

19.7 The Tribunal found that a solicitor of integrity would comply with his legal and ethical obligations to provide all the information required to facilitate an investigation into his conduct. He would also ensure that the Applicant had his contact details and that he responded to the Applicant's correspondence. It was clear that the Respondent knew at the time of the disciplinary meeting that there would be potential regulatory consequences from his actions. A solicitor of integrity knowing this would ensure that he engaged with the regulator.

19.8 It followed that a solicitor who was on notice of potential disciplinary matters and did not engage with his regulator was not behaving in a way that maintained the trust the public placed in him and in the provision of legal services. Such a solicitor could not be said to have complied with his legal and regulatory obligations nor to have dealt with his regulator in an open, timely and co-operative manner.

19.9 Allegation 6 was proved beyond reasonable doubt.

20. Dishonesty

20.1 As the factual basis of allegations 4.1, 4.3 and 4.4 had not been proved and allegations 1, 4.2 and 5 had been withdrawn the allegation of dishonesty only fell to be considered in respect of allegations 2 and 3.

The Applicant's Case

20.2 The test for dishonesty was set down in the case of Ivey v Genting Casinos (UK) Limited t/a Crockfords [2017] UKSC 67. When dishonesty was in question the 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 was a matter of evidence (often in practice determinative) going to whether he held the belief, but it was not an additional requirement that his belief must be reasonable; the question was whether it was genuinely held. When once his actual state of mind as to knowledge or belief as to facts was established, the question whether his conduct was honest or dishonest was to be determined by the fact-finder by the applying the (objective) standards of ordinary decent people. There was no requirement that the Respondent must appreciate that what he had done was, by those standards, dishonest.

20.3 The Applicant submitted that the Respondent was dishonest by the standards of ordinary decent people. In respect of Allegation 2 the Respondent sought to conceal the complaint made by Mr A by offering him a financial inducement to cease the process.

20.4 In respect of Allegation 3 the Respondent: -

- a) Misled LD and his father that there was a possible civil claim against LD for the alleged criminal damage when in fact it was a fictitious ‘victim’ created by the Respondent;
- b) Falsified a settlement agreement to obtain further payment from LD and his father when he knew that there was no victim named “JE”;
- c) Signed the settlement agreement as “JE” whilst knowing that he was doing so in his own handwriting;
- d) Provided deliberately misleading advice to LD and his father to obtain a further pecuniary benefit from them by the creation of “JE”.

20.5 The Applicant submitted that the Respondent acted dishonestly by the standards of ordinary decent people.

20.6 Ms Knights’ evidence was that, whilst it was difficult to quantify as a result of the Respondent’s actions, the Firm has been deprived of or directly lost income going into tens of thousands, possibly hundreds of thousands of pounds. His actions had had a knock on effect on the business and had marred the Firm’s reputation and affected profitability.

The Respondent’s Case

20.7 The Respondent had not engaged with the proceedings. The Tribunal proceeded on the basis that the allegation was denied.

The Tribunal’s Findings

20.8 Allegation 2

20.8.1 The Tribunal had found that the Respondent repeatedly contacted Mr A to try to persuade him to continue to use his services, despite being informed by Mr A that he no longer wished to retain the Respondent as his representative; and the Respondent attempted to persuade Mr A to drop his service complaint to the Firm, offering Mr A money as an inducement to do so.

20.8.2 The Tribunal ascertained the Respondent’s actual state of knowledge or belief as to the facts. The Respondent had made the direct contact with Mr A both before the sentencing hearing and in relation to the complaint. The Respondent had known that Mr A had complained. He knew from the disciplinary meeting that the Firm were going to report him to the SRA and that he might be struck off. He knew that he had already resigned from the Firm and was due to leave in mid-February and that during the meeting on 23 January 2019 he said that he was leaving the Firm with immediate effect.

20.8.3 Having established the Respondent's state of knowledge, the Tribunal considered whether the Respondent's conduct was honest or dishonest by applying the (objective) standards of ordinary decent people. In light of its factual findings and its conclusions in relation to the Respondent's knowledge the Tribunal was sure that the Respondent had been dishonest by the standards of ordinary decent people. The Respondent had deliberately tried to induce Mr A to drop his complaint. This was for the Respondent's own benefit. Ordinary decent people would consider the Respondent's actions dishonest.

20.8.4 Dishonesty in relation to allegation 2 was proved beyond reasonable doubt.

20.9 Allegation 3

20.9.1 The Tribunal had found that the Respondent had prepared a settlement agreement for LD by which he alleged that a victim named "JE" would be compensated when in fact it was a device for the Respondent to benefit personally as the Metropolitan Police confirmed that there was no victim named "JE" in their investigation against LD.

20.9.2 The Tribunal ascertained the Respondent's actual state of knowledge or belief as to the facts. The Respondent had represented LD at a fixed fee interview and knew that the police were taking no further action. Having represented LD at the interview, the Respondent knew that there was no victim named "JE" in relation to the matters that LD had been interviewed about. The Respondent sent the settlement agreement to LD's father and requested the payment. He therefore had knowledge of the terms of the agreement, the fact it had been sent to the client's father and of the request for payment. The Tribunal did not know who had signed the agreement as "JE" but this was irrelevant.

20.9.3 Having established the Respondent's state of knowledge the Tribunal considered whether the Respondent's conduct was honest or dishonest by applying the (objective) standards of ordinary decent people. In light of its factual findings and its conclusions in relation to the Respondent's knowledge, the Tribunal was sure that the Respondent had been dishonest by the standards of ordinary decent people. Ordinary decent people would consider it dishonest both to prepare a settlement agreement for your client which alleged that a fictional victim would be compensated and to arrange for the alleged compensation to be paid into an account of the Respondent's specification which was not the Firm's account.

20.9.4 Dishonesty in relation to allegation 3 was proved beyond reasonable doubt.

Previous Disciplinary Matters

21. There were no previous matters.

Mitigation

22. The Respondent had not engaged with the proceedings. He had not submitted any mitigation for the Tribunal to consider.

Sanction

23. The Tribunal referred to its Guidance Note on Sanctions (December 2018) when considering sanction. The Tribunal was mindful of the three stages when approaching sanction, namely the seriousness of the misconduct, the purpose for which sanctions are imposed by the Tribunal and the sanction which appropriately fulfils that purpose in light of the seriousness of the misconduct.
24. The Tribunal assessed the seriousness of the misconduct. The Tribunal took into account the Respondent's culpability, the harm caused by the misconduct and any aggravating and mitigating factors.
25. The Respondent was completely culpable for the misconduct. His motivation for the underlying misconduct appeared to be financial gain. In trying to persuade Mr A to withdraw the complaint the Respondent's motivation was to try and salvage his career and avoid a referral to his regulator. His actions were planned, he provided the bank account details into which he received the payments. The Respondent was in breach of a position of trust. He took clients' money and did not ensure it was paid into the Firm's account. He had direct control of and responsibility for the circumstances giving rise to the misconduct. He provided the bank account details to Mr A and to LD's father. He sent the settlement agreement to LD's father and requested the £3,800. At the time of the misconduct the Respondent had about three years post qualification experience so was not particularly experienced. However a solicitor of any experience would have known that the misconduct found proved was wrong. Whilst the Respondent had not deliberately misled the regulator he had tried to persuade the Firm not to report him and had not engaged with the regulator.
26. Ms Knights' evidence was that the Respondent's actions had caused harm to the Firm. The Firm had suffered financial loss and reputational damage. The Tribunal was struck by Ms A-B's comment that "...After what happened with Mr Saeed, it would take a lot for me to trust someone from the legal profession again, as he seemed so convincing and trustworthy in the first place, and made us feel that everything would be fine". The impact of the Respondent's misconduct upon those directly or indirectly affected by it, the public and the reputation of the legal profession was significant. The Respondent's conduct was a complete departure from the standards of integrity, probity and trustworthiness expected of a solicitor. The harm caused was intended for the Respondent had obtained payment from Mr A and LD's father that should have been made to the Firm. Any harm caused that was not intended would have reasonably been foreseen to have been caused by the Respondent's misconduct.
27. There were a number of aggravating factors. Dishonesty had been alleged and proved. The misconduct was deliberate, calculated and repeated. It continued over a period of time. The Respondent had provided bank account details to Mr A and to LD's father. Payments had been made into that account (which was not the Firm's account) by or on behalf of Mr A and LD. Mr A and LD were in vulnerable circumstances, they were either facing criminal investigation or charges. There was no specific evidence that LD was vulnerable. Mr A had mental health difficulties and was, in the Tribunal's opinion, vulnerable. The Respondent had sought to conceal his wrong doing, taking time off work to represent Mr A and seeking to persuade him to withdraw his complain. The Respondent must have known or ought reasonably to have known that his conduct was

in material breach of his obligations to protect the public and the reputation of the profession. There had been a significant impact on those affected by the misconduct. This was evident from Mr A and Ms A-B's witness statements.

28. The Tribunal could not identify any mitigating factors.
29. The Respondent's misconduct was extremely serious. Whilst the Tribunal was required to start with consideration of the least serious sanction, namely No Order, it was clear that No Order, a Reprimand, Fine or Restriction Order did not reflect the seriousness of the misconduct and nor did they provide sufficient protection to the public or the reputation of the profession. For the same reason a suspension was insufficient. Dishonesty had been alleged and proved. A finding of dishonesty will almost invariably lead to striking off save in exceptional circumstances Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin). There were no exceptional circumstances so far as the Tribunal was aware and the appropriate sanction was for the Respondent's name to be struck off the Roll of Solicitors.

Costs

30. The Applicant applied for its costs in the sum of £20,620 as set out in a costs schedule dated 19 July 2019. Mr Bullock acknowledged that the Tribunal might consider that there should be a reduction in costs due to the amendments to the Rule 5 Statement. He also highlighted the fact that the costs schedule included estimated preparation of 28 hours which could be reduced to 21 hours and the time for the hearing could also be reduced slightly. A deduction should be made for the internal case conference that had been included. It was a matter for the Tribunal as to whether the advocacy costs claimed for Ms Dixon on 6 June 2019 were reasonable.
31. The Tribunal summarily assessed costs. It had heard the case over two days and it was appropriate for the Tribunal to determine the liability for costs and the quantum of any costs it ordered should be paid.
32. The Rule 5 was poorly drafted and in the Tribunal's opinion, over-pleaded in terms of the number of alleged breaches of Principles, Practice Framework Rules, Outcomes and Accounts Rules. Mr Bullock had done his best to assist the Tribunal in difficult circumstances and the Tribunal made no criticism of him. His candour and apology were appreciated. However the state of the Rule 5 Statement and the fact two whole allegations and parts of two further allegations had been withdrawn and a further allegation found not proved could not be overlooked.
33. The Respondent had not engaged with the proceedings. A number of serious allegations had been proved against the Respondent and it was appropriate that he pay some of the costs of the proceedings. The extra costs in terms of preparation for trial, witness statement and documents were not easily quantifiable. As allegations 1 and 5 had been withdrawn at an early stage, the extra time at the hearing in respect of these allegations was limited. Parts of allegation 4 were entwined with allegation 3 which meant that the extra time at the hearing in respect of this unsuccessful allegation was difficult to quantify. The Applicant had not been reasonable in bringing forward allegation 1 as drafted. Had it been, the Applicant would have been able to prove the allegation. The case had been poorly considered before issue. As originally pleaded the case was

somewhat shambolic. Clearly, the Applicant had incurred costs in connection with those allegations withdrawn.

34. The Tribunal carefully considered the costs schedule and assessed costs in the sum of £10,000. This was less than half the sum claimed but given the state of the Rule 5 Statement, the amendments that had been made and the allegation not proved the Tribunal determined this to be the appropriate sum. Had the Rule 5 Statement been properly prepared the Tribunal considered that the costs incurred would have been in this region especially in light of the fact that, had it been, the matter could have been dealt with in a day.
35. The Respondent had been afforded the opportunity to provide evidence as to his means but had not filed a statement of means. There was no evidence before the Tribunal that he was unable to pay the Applicant's costs or that the costs needed to be reduced due to his means. The Tribunal ordered that the Respondent pay the costs of and incidental to this application and enquiry fixed in the sum of £10,000.00.

Statement of Full Order

36. The Tribunal Ordered that the Respondent, SHUAIB SAEED solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,000.00.

Dated this 4th day of September 2019

On behalf of the Tribunal



H. Dobson
Chair

FILED WITH THE LAW SOCIETY

05 SEPT 2019