

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11997-2019

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

JAYANTHI REDDY SAGANTI

Respondent

Before:

Mr P. Lewis (in the chair)

Mr J. C. Chesterton

Mr S. Howe

Date of Hearing: 8 November 2019

Appearances

There were no appearances on behalf of the parties as they had submitted a Statement of Agreed Facts and Indicated Outcome which was considered by the Tribunal in private.

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against the Respondent were that:
 - 1.1 From January 2018 to September 2018 the Respondent misappropriated monies from client account in the sum of £80,000.00. In so doing she breached any or all of the following:
 - 1.1.1 Principles 2 and 6 of the SRA Principles 2011 (“2011 Principles”); and
 - 1.1.2 Rule 20.1 of the SRA Accounts Rules 2011 (“2011 Accounts Rules”).

It was alleged that the Respondent had acted dishonestly.
 - 1.2 From in or around 2013 the Respondent failed to have properly written up books of account or proper accounting systems in place in breach of all or any of Rules 1.2(e), 1.2(f), 1.2(i), 6, 12.7(b), 29.2 and 29.12 of the 2011 Accounts Rules.
 - 1.3 The Respondent failed to replace a minimum shortfall on client account in the sum of £245,100.00, promptly or at all, and therefore breached Rule 7.1 of the 2011 Accounts Rules and all or alternatively any of Principles 6 and 10 of the 2011 Principles;
 - 1.4 The Respondent failed to run the business effectively and in accordance with proper governance and sound risk management principles by failing to establish and maintain proper accounting systems, and controls over those systems as detailed in allegation 1.2 and by failing to have systems and controls in place to prevent the sum of £165,100.00 being incorrectly paid out of client bank account. In so doing she breached any or all of the following:
 - 1.4.1 Principles 6, 7, 8 and 10 of the 2011 Principles;
 - 1.4.2 Rule 8.5 of the SRA Authorisation Rules 2011 (2011 Authorisation Rules”).
 - 1.5 The Respondent failed to comply with an undertaking given to AS Solicitors on 15 August 2017 in that she failed to hold the net proceeds from a property sale to their order. In so doing she has breached any or all of the following:
 - 1.5.1 Principles 2, 6 and 7 of the 2011 Principles.
 - 1.5.2 Failed to achieve Outcome 11.2 of the SRA Code of Conduct.
 - 1.6 The Respondent acted where there was a conflict (or significant risk of a conflict) between her own interests and those of her client in borrowing monies from her client without ensuring they obtained independent legal advice. In so doing she has breached any or all of the following:
 - 1.6.1 Principle 3 and 4 of the 2011 Principles; and
 - 1.6.2 Failed to achieve Outcome 3.4 of the SRA Code of Conduct.

Documents

2. The Tribunal reviewed all the documents submitted by the Applicant and the Respondent which included:
 - The Applicant's Application and Rule 5 Statement dated 29 July 2019 together with attached exhibits
 - Applicant's Statement of Costs dated 29 July 2019
 - Standard Directions dated 1 August 2019
 - The Respondent's Answer to the Rule 5 Statement dated 1 September 2019
 - The Respondent's Personal Financial Statement dated 3 October 2019
 - Statement of Agreed Facts, Admissions and Outcome dated 6 November 2019

Preliminary Matters – Agreed Outcome Procedure

3. On 6 November 2019 the Applicant submitted an application on behalf of both parties for the Tribunal to approve an Agreed Outcome to the proceedings. In accordance with paragraph 2.2 of the Tribunal's standard directions, the matter was listed for consideration by a division of the Tribunal, in private, on 8 November 2019. For the reasons set out below, the Tribunal was satisfied that the Agreed Outcome should be approved without requiring any further submissions from the parties. The Tribunal's decision was announced in open court, and an Order setting out the Tribunal's Order was filed with the Law Society on 8 November 2019. This Judgment sets out the circumstances of the matter and the Tribunal's reasons for its decision. The Statement of Agreed Facts, Admissions and Outcome is attached to this Judgment.

Agreed Factual Background

4. The Respondent, born in 1948, was admitted as a solicitor on 2 May 2006.
5. At all relevant times the Respondent practised on her own account under the style of Jusprosess Solicitors at 214 High Street, Hounslow, Middlesex, TW3 1HB ("the Firm"). The Firm started trading on 1 December 2007.

Findings of Fact and Law

6. The Tribunal had carefully considered all the documents provided. 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 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.
7. The Tribunal was satisfied that the Respondent's admissions to all the allegations were properly made. On the basis of those admissions and the agreed facts presented

the Tribunal was satisfied that the allegations had all been proved to the requisite standard.

8. The Tribunal considered its Guidance Note on Sanctions. In doing so, the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Tribunal agreed with the analysis of the outcome set out in the Agreed Outcome.
9. The Tribunal noted that, at the time of the alleged conduct the Respondent was the firm's Compliance Officer for legal Practice ("COLP"), Compliance Officer for Finance and Administration ("COFA") and Money Laundering Reporting Officer ("MLRO").
10. The Firm had made a report to the Solicitors Regulation Authority (the "SRA") on 5 October 2018. The Firm had stated that two of its email addresses had been hacked. The Firm had made payments of £165,100.00 out of the client bank account based on payment instructions received in fraudulent emails. Consequently, the payments had been made to incorrect parties.
11. The Firm's professional indemnity insurance policy for the period 1 October 2018 to 30 September 2019 had not been properly inceptioned. Since 1 October 2018 the Firm did not hold professional indemnity insurance ("PII"). Following the Firm being unable to obtain PII for the 2018/19 indemnity period the Firm ceased trading on 30 December 2018. The Respondent did not submit a "Firm Closure Notification" form.
12. Due to a lack of accounting records, the SRA's Forensic Investigation Officer ("FIO") was unable to calculate whether the firm held sufficient funds in client bank account to match the liabilities to clients. He was able to confirm that, as at 30 November 2018, a minimum cash shortage existed upon the client account of £245,100.00. At the date of the FIO report (18 January 2019) the Firm had replaced £80,000.00 by way of a loan from a client.
13. In an email dated 13 December 2018 from the Respondent to the FIO, answering queries raised around the sum of £80,000.00 which had been paid to Client C, the Respondent had admitted she had used Client C's money for refurbishment of the Firm's new office in March and April 2018 to pay for builders and materials. The Respondent stated she had borrowed the sum of £80,000 and had replaced it on 10 December 2018 to pay back Client C.
14. In a further letter dated 21 December 2018 from the Firm to the FIO the Respondent again confirmed that Client C's money had been used for office expenses and payments between January 2018 and September 2018.
15. On 12 February 2018, the Firm was intervened and the Respondent's practising certificate was suspended. At the time of the intervention a shortfall of £165,100 existed.

16. The Tribunal had found that the Respondent had acted dishonestly. She had knowingly misappropriated a client's money to fund the refurbishment of her office and for office expenses and payments. The client's funds had been taken over a period of 9 months and had caused a shortage of £80,000.00 on client account which was identified by the Respondent on 11 September 2018. This shortage remained until the funds were replaced on 10 December 2018.
17. Furthermore the Firm's books of account did not comply with the Solicitors Accounts Rules 2011. There was a lack of accounting records and the ledgers had not been maintained as required by the rules. No client account reconciliations had been done since the client account was opened in 2013 and there was no list of liabilities owed to clients. The accounts had not been audited as required by the rules.
18. The Tribunal was satisfied that the Respondent had failed to establish or maintain any proper accounting systems or internal controls over those systems or keep accounting records properly written up. She had no system in place to check the authenticity of emails to prevent email fraud and thereby protect client funds. The Respondent had failed to comply with an undertaking and she had borrowed £80,000 from a client without advising that client to take independent legal advice. The Tribunal found that the Respondent had failed to run the Firm effectively and in accordance with proper governance and sound financial and risk management principles.
19. The Tribunal was satisfied that the Respondent's conduct was extremely serious. The Respondent had acted dishonestly and there were no exceptional circumstances in this case. The Tribunal was satisfied that the appropriate and proportionate sanction was for the Respondent to be Struck Off the Roll of Solicitors. This was the minimum necessary to protect the public and the reputation of the profession.
20. The Tribunal determined that the case could be concluded on the basis of the Statement of Agreed Facts, Admissions and Outcome. The Tribunal Ordered the Respondent be Struck Off the Roll of the Solicitors.

Costs

21. As part of the proposed Agreed Outcome, it was further proposed that the Respondent should pay £4,000 for the Applicant's costs.
22. Based on the agreement between the parties, the Tribunal was satisfied that the agreed costs in the sum of £4,000 were reasonable and proportionate, particularly as a full trial had not been necessary in this case. Accordingly the Tribunal Ordered the Respondent to pay the Applicant's costs in the agreed sum of £4,000.

Statement of Full Order

23. The Tribunal Ordered that the Respondent, JAYANTHI REDDY SAGANTI, solicitor, 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 £4,000.00.

Dated this 20th day of December 2019
On behalf of the Tribunal

A handwritten signature in black ink, appearing to read 'P. Lewis', with a vertical line extending upwards from the start of the signature.

P. Lewis
Chairman

JUDGMENT FILED WITH THE LAW SOCIETY
20 DEC 2019

IN THE MATTER OF THE SOLICITORS ACT 1974

SOLICITORS REGULATION AUTHORITY

Applicant

JAYANTHI REDDY SAGANTI

Respondent

STATEMENT OF AGREED FACTS, ADMISSIONS AND OUTCOME

1. By its application dated 29 July 2019, and the statement made pursuant to Rule 5(2) of the Solicitors (Disciplinary proceedings) Rules 2007 which accompanied that application, the Solicitors Regulation Authority ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal concerning the conduct of Ms Saganti. ("The Respondent")

Allegations

2. The allegations against the Respondent are that-

- 2.1 From January 2018 to September 2018 she misappropriated monies from client account in the sum of £80,000.00. In so doing she breached any or all of the following:

- 2.1.1 Principles 2 and 6 of the SRA Principles 2011 ("2011 Principles"); and

- 2.1.1 Rule 20.1 of the SRA Accounts Rules 2011 ("2011 Accounts Rules").

- 2.2 From in or around 2013 she failed to have properly written up books of account or proper accounting systems in place in breach of all or any of Rules 1.2(e), 1.2(f), 1.2(i), 6, 12.7(b), 29.2 and 29.12 of the 2011 Accounts Rules.

2.3 She failed to replace a minimum shortfall on client account in the sum of £245,100.00, promptly or at all, and therefore breached Rule 7.1 of the 2011 Accounts Rules and all or alternatively any of Principles 6 and 10 of the 2011 Principles;

2.4 She failed to run the business effectively and in accordance with proper governance and sound risk management principles by failing to establish and maintain proper accounting systems, and controls over those systems as detailed in allegation 1.2 and by failing to have systems and controls in place to prevent the sum of £165,100.00 being incorrectly paid out of client bank account. In so doing she breached any or all of the following:

2.4.1 Principles 6, 7, 8 and 10 of the 2011 Principles;

2.4.2 Rule 8.5 of the SRA Authorisation Rules 2011 (“2011 Authorisation Rules”)

2.5 She failed to comply with an undertaking given to Appleby Shaw on 15 August 2017 in that she failed to hold the net proceeds from a property sale to their order. In so doing she breached any or all of the following:

2.5.1 Principles 2, 6 and 7 of the 2011 Principles.

2.5.2 Failed to achieve Outcome 11.2 of the SRA Code of Conduct.

2.6 She acted where there was a conflict (or significant risk of a conflict) between her own interests and those of her client in borrowing monies from her client without ensuring they obtained independent legal advice. In so doing she breached any or all of the following:

2.6.1 Principle 3 and 4 of the 2011 Principles; and

2.6.2 Failed to achieve Outcome 3.4 of the SRA Code of Conduct.

3. Dishonesty is alleged with respect to the allegation at paragraph 2.1 above.

Admissions

4. The Respondent admits the allegations against her as set out in paragraphs 2 and 3 above in their entirety. She further accepts the factual basis of the admitted allegations as set out in this document.

Agreed facts

The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraphs 2 and 3 of this statement, are agreed between the SRA and the Respondent:

5. The Respondent was admitted as a solicitor on 2 May 2006. Her name remains on the Roll.
6. At all relevant times the Respondent practised on her own account under the style of Jusproless Solicitors, (The Firm) at 214 High Street, Hounslow, Middlesex, TW3 1HB. The Firm started trading on 1 December 2007. The Respondent was the firm's Compliance Officer for legal Practice ("COLP"), Compliance Officer for Finance and Administration ("COFA") and Money Laundering Reporting Officer ("MLRO").
7. The Firm made a report to the Solicitors Regulation Authority (the "SRA") on 5 October 2018. The Firm gave details of two of its email addresses that they said had been hacked. The Firm had made payments of £165,100.00 out of client bank account based on payment instructions received in fraudulent emails. Consequently, the payments had been made to incorrect parties.
8. The firm's professional indemnity insurance policy for the period 1 October 2018 to 30 September 2019 had not been properly incepted. Since 1 October 2018 the firm did not hold professional indemnity insurance. (PII) In pre-investigation regulatory engagement, questions were raised in relation to the position regarding the insurance in a letter dated 23 November 2018.
9. Following the firm being unable to obtain PII for the 2018/19 indemnity period the Firm ceased trading on 30 December 2018. The Respondent did not submit a "Firm Closure Notification" form.

10. An urgent Forensic Investigation was commenced by a Forensic Investigation Officer (“the FIO”) on 10 December 2018. The inspection culminated in a report dated 18 January 2019 (“the FI Report”) Due to a lack of accounting records, the FIO was unable to calculate whether the firm held sufficient funds in client bank account to match their liabilities to clients. He was able to confirm that, as at 30 November 2018, a minimum cash shortage existed upon the client account of £245,100.00. At the date of the report the Firm had replaced £80,000.00 by way of a loan from a client. The shortage was made up as detailed below in paragraphs 34 and 35.
11. A decision was made on 6 February 2019 to intervene into the Firm and into the practice of the Respondent. The intervention took place on 12 February 2019 and the Respondent’s Practising Certificate for 2018/2019 was suspended. The Respondent’s name remains on the Roll.

Details of the transaction – Ms C – dispute with Mr S

12. The Respondent acted for Ms C in a financial dispute with her former partner Mr S, who was represented by Appleby Shaw. The dispute related to the share each of them was entitled to of the sale proceeds of their former home, a property in West Drayton. (“the Drayton property”)
13. Lovell Chohan had previously acted for Ms C in her dispute with Mr S. They had completed the sale of the Drayton property on 24 May 2017. The matter was transferred to the Respondent on 16 August 2017.
14. On 16 August 2017 Lovell Chohan wrote to the firm enclosing a cheque for £330,903.71. This represented the proceeds of sale in the sum of £332,393.31 less Lovell Chohan’s costs of £1,489.60. The cheque cleared the Firm’s bank account on 17 August 2017.
15. The Respondent provided an undertaking dated 15 August 2017 to Appleby Shaw. It said:

“WE (sic) JusProwess Solicitors Undertake that we will hold the net proceeds of sale of the property at Drayton in the sum of £331,893.31 strictly to your firm’s order pending agreement or an order of the court”

'Please be aware this undertaking will be effected from the date of the monies received from Lovell Chohan Solicitors'.

16. An Agreement dated 11 September 2018, prepared by Appleby Shaw, and signed by Mr S and Ms C, detailed:
 1. The property at Drayton had been purchased by Mr S and Ms C in joint names in 2013.
 2. The property was sold on 24 May 2017 and the net sale proceeds were £331,893.31.
 3. A £10,000.00 interim payment from the net sale proceeds was advanced to both Ms C and Mr S in September 2017.
 4. The remaining sum of £311,893.31 was being held by the Firm pending final agreement or court order.
 5. Mr S was to receive a further £70,000.00 from the balance proceeds within 7 days of the agreement.
 6. Ms C was to receive the remaining balance of £241,893.31. (£311,893.31 - £70,000.00)
 7. Each party would be responsible for their own legal costs.

17. The FI Officer noted:
 1. The Agreement referred to sale proceeds of £331,893.31. The Firm only received £330,903.71 from Lovell Chohan Solicitors as detailed in paragraph 14 above.
 2. The Agreement referred to an interim distribution totalling £20,000.00 to both Ms C and Mr S in September 2017. £10,000.00 was paid to Appleby Shaw for Mr S on 7 September 2017. Only £8,511.00 was paid to Ms C on 18 September 2017.
 3. The Agreement refers to a remaining sum of £311,893.31 being held by the firm. The Firm was actually holding £312,392.71. (£330,903.71 - £18,511.00)

Payments out of client bank account

18. Payments from the client bank account of this matter were paid out on the basis of purported instructions from Appleby Shaw and Ms C. The Firm made payments totalling £165,100.00 to unknown third parties between 11 September 2018 and 1 October 2018. They were as follows:
 - (1) £70,00.00 purportedly sent to Appleby Shaw.
 - (2) £95,000.00 purportedly sent to Ms C's accountant; and
 - (3) £100.00 purportedly sent to Ms C.

Purported payments to Appleby Shaw

19. The initial payment instructions were provided in a genuine email from Mr Sankhla of Appleby Shaw to the Respondent dated 10 September 2018 at 12.08. It requested that payment of £70,00.00 be made to 'Appleby Shaw Solicitors' Lloyds Bank sort code 30-99-72 account number 15727560.

20. A further email was received by the Respondent, which was purportedly from Mr Sankhla on 10 September 2018 at 2.24pm amending the bank details to where the funds were to be sent. It said:

"Please disregard previously sent email. There are errors on banking details.

Find below correct bank details for your payment transfer.

Amrita Proag Appleby S.S

Nationwide Bank

...."

21. Email communications discussed making payment in three tranches due to a limit placed on individual transfers that could be made out of the Respondent's bank account. In particular, an email on 11 September 2018 at 9:20.25, which provided the payment details again, detailed the senders address as bsankhla@applebyshaw.com. (as opposed to .com) It asked that confirmation be given once transfers had been made.

22. The monies were made in three tranches (£25,000.00, £25,000.00 and £20,000.00) on the 11 September 2018 to Amrita P Appleby.

23. The Nationwide bank account where the transfers had been made to was not a bank operated by Appleby Shaw. It is not known to whom the funds were sent.

Purported payments to Ms C

24. The Firm made four transfers totalling £95,000.00 (one of £20,000.00 and three of £25,000.00) from client bank account on 11 and 13 September 2018, to First Direct bank, sort code 40-47-60, account number 08531935. The payment description was to Sumitra Konduru.

25. There was a chain of emails between the Respondent and purportedly Ms C between 11 September 2018 and 13 September 2018 regarding the payment to Ms C. In an email dated 11 September 2018 at 3.14 to Ms C the Respondent requested Ms C's account details.
26. On the same day in an email sent at 8.33pm Ms C said, "*am just leaving our accountants office and have informed them duly of your payment schedule*" and requested that payment be made to 'Sumithra Kondura' at First Direct bank as detailed in paragraph 24 above.
27. The Respondent replied that day at 4.41pm (this is before the time stated on the previous email received from Ms C) and said, "*But this is not your account since you asking me to transfer I will do it*". Confirmation of the transfers were provided by the Respondent to Ms C in emails dated 12 and 13 September 2018.
28. On 1 October 2018 Ms C purportedly provided the firm with details of a bank account to make payment of the remaining funds due. This again was not from the genuine Ms C. It was to be sent to her joint business HSBC account, in the name of: J. Marie Mackie & E. Costa Business Account - sort code 40-26-01 and account number 01405845.
29. A test payment of £100.00 was made from client account to the above account on 1 October 2018. The purported Ms C confirmed that she had received the payment and asked that the remaining funds be sent to that account. No further funds were sent to this account.

Confirmation that monies not received by the correct parties

30. On 5 October 2018 Appleby Shaw requested payment of the settlement monies due to Mr S (£70,000.00). The Respondent informed Appleby Shaw that the funds had been sent on 11 September 2018. Appleby Shaw confirmed that the bank account to which the monies had been sent was not their bank account.
31. The Respondent then called Ms C who confirmed that she had not received any funds. She confirmed that she had not provided the firm with any bank account details.
32. On 23 October 2018, at the request of Appleby Shaw/Mr S a payment of £30,000.00 was made from the remaining monies due to Ms C to Appleby Shaw with the consent of Ms C.

33. The fraud was notified to the SRA in an email dated 5 October 2018 as detailed above in paragraph 7. The Respondent's insurers were also notified. Enquiries were made of the Respondent regarding the fraud in pre-investigation regulatory engagement by way of letter dated 23 November 2018.

Client account shortage

34. This created a shortage on client account of £165,100.00. This had not been replaced as at the date of intervention.

35. There was a further £80,000.00 shortage on the client account. This was due to improper transfers made by the Respondent from the client bank account of Ms C to office bank account between January 2018 and September 2018. This was replaced on 10 December 2018 by way of a loan obtained by the Respondent from a client of the firm in the sum of £80,000.00. From this, a payment of £80,000.00 was made to Ms C on 11 December 2018.

Allegation 2.1 – Misappropriation of client funds

36. The sum of £80,000.00 had been improperly transferred from client to office bank account from the funds held on the Ms C matter detailed in paragraph 14 above. The transfers were made by the Respondent between January 2018 and September 2018.

37. In an email dated 13 December 2018 from the Respondent to the FIO, answering queries raised around the £80,000.00 that had been paid to Ms C, she said:

"In relation to the £80,000.00 which we paid to Ms ... C on 11 September¹, I must admit that we have used this money when we moved to the new office for refurbishment in March and April 2018 to pay builders and materials for different service providers. I have taken this amount from our friends and replaced this amount on 10 December 2018 to pay Ms ... C."

38. In a letter dated 21 December 2018 from the Firm to the FIO the Respondent confirms again that the money has been used for office expenses and payments between January 2018 and September 2018, and that:

(i) the £80,000.00 was not taken in one transaction;

¹ The payment was made on 11 December 2018 not 11 September 2018

- (ii) that she was unable to identify the exact dates the £80,000.00 was withdrawn from client bank account;
- (iii) that she did not have Ms C's authority to withdrawn £80,000.00 from client bank account and Ms C was not aware that she had done so to fund office expenses and payments; and
- (iv) she thought that she would be able to replace Ms C's funds before the settlement agreement was finalised on 11 September 2018, when the shortage of £80,000.00 was identified.
- (v) She knew that the £80,000.00 needed to be replaced, she requested funds from her friends and applied for loans. The Firm credited professional fees to client bank account as a replacement as and when they could.

39. In the final interview with the FIO on 4 January 2019 the Respondent was asked "*Do you think it right though that you used other client's money, or particularly Miss C's money to pay ...*" The Respondent replied; "*It is not right, it is not right, but I don't have any option. I thought I will replace it*"

Breaches of the SRA Principles and Accounts Rules

40. The Respondent had knowingly misappropriated client's money to fund the refurbishment of the office and for office expenses and payments. The practise of using client monies to meet these costs took place over a period of 9 months. The Respondent's actions resulted in a shortage of £80,000.00 on client account which was identified by her on 11 September 2018. The shortage persisted until the funds were replaced on 10 December 2018. The public would not expect a solicitor to take client's money to fund the office refurbishment and for office expenses and payments. Such conduct compromises the Respondent's integrity in breach of Principle 2 of the 2011 Principles and undermines the trust that the public places in her and in the provision of legal services in breach of Principle 6 of the 2011 Principles.
41. Further, the Respondent acted in breach of Rule 20.1 and 20.9 of the 2011 Accounts Rules by withdrawing money from the client account when it was not properly required for a payment to or on behalf of the client. And, by allowing the client account to go overdrawn.

Allegation 1.2 – Books of account not properly written up/inadequate accounting systems

42. The books of account were not in compliance with the 2011 Accounts Rules. Due to the lack of accounting records, the FIO was unable to calculate whether the Firm held sufficient funds in client bank account to match their liabilities to clients as at 30 November 2018. In the interview with the FIO on the 4 January 2019 the Respondent agreed that that the accounting records were in a “mess”. The FIO said “*I can (sic) have really any reliance on the accounting records*”.
43. The Respondent confirmed to the FIO in the interview on 4 January 2019 that the Firm had held a client bank account since it had opened on 1 December 2007. The account started in 2013 when they began to conduct conveyancing and commercial leases.

Ledgers not maintained in compliance with the SRA Accounts Rules

44. The ledgers were not maintained in compliance with the SRA Accounts Rules 2011. For example, the ledger account on the Ms C matter, prepared using the ‘Leap’ accounting software, was inaccurate and was not reliable, because;
- (i) The date of each transaction recorded on the ledger was not the date that the transaction took place at the firm’s bank.
 - (ii) The client ledger did not detail the transfers from client to office account totalling £80,000.00.
 - (iii) The Firm made an interim payment of £8,511.00 from client bank account to Ms C on 18 September 2017. There is no corresponding entry on the client ledger account for this payment.
 - (iv) The client ledger incorrectly detailed a payment of £1,489.60 to Lovell Chohan on 2 October 2018. No such payment had been made from the client bank account.
45. The Respondent confirmed in interview with the FIO on 4 January 2019 that the dates of the transactions shown by the LEAP client ledger account for Ms C were the dates the transactions were posted not the date the transactions took place at the firm’s bank. She said; “*previous dates of the previous client files we can not enter the, into the LEAP system with the back- dated one.... I have entered all of them on the same day in the LEAP system*”

46. When the FIO pointed out the withdrawals from client account were not reflected on the ledger, she said; *“Ok, but I was not aware that I each and every thing I had to draw and enter into this”* Because of this she agrees it was a worthless document.
47. The Respondent agreed that the difficulties on the MS C’s matter had been caused by a lack of accounting records. She replied *“yes”*, when it was put to her by the FIO, *“But you can understand the difficulty, because of the lack of account records, which is why we’re having these troubles.”*

No client account reconciliations

48. The firm had not conducted either a client account reconciliation or maintained a list of liabilities owed to its clients since the Respondent started to operate the client bank account in 2013.
49. When the FIO attended the Firm on 10 December 2018, he requested to see the Firm’s most recent client account reconciliation. The Respondent gave him the client account cash books which had been prepared using Microsoft Excel for the months of July 2018. These were not reconciliation statements.
50. The Respondent sent to the FIO, by email dated 13 December 2018 an Excel document titled ‘Bank Reconciliation Statement’ for the period from 1 September 2018 to 4 December 2018. This was not a client account reconciliation; it was a client account cash book. There had been no comparison between client money held by the firm and the firm’s liabilities to clients.
51. The Respondent said in the interview with the FIO on 4 January 2019 that she was aware that the Firm was required to conduct client bank account reconciliations. When asked by the FIO; *“were you previously aware that there was an obligation under the Solicitors Account’s Rules to conduct a client account reconciliation”* She replied, *“Yes”*. And when asked *“five weeks, you were aware?”* she said *“Yes, I am aware”*. The Respondent had delegated to her accountants the task of preparing reconciliation statements. The Respondent agreed that the excel spreadsheet with the FI Report *“doesn’t show anything about client liabilities”*

Client account interest

52. Client account interest had been incorrectly credited to the firm’s client bank account.

Accounting records

53. The firm maintained their accounting records in three different formats:
- (1) Manual handwritten ledgers
 - (2) Microsoft Excel
 - (3) 'Leap' book keeping software.
54. The Respondent confirmed in the interview with the FIO on 4 January 2019 that:
- (1) The firm used Microsoft Excel to conduct their client account reconciliations.
 - (2) In March 2018 the firm purchased 'leap' book keeping software and have maintained some ledger accounts on 'Leap'
 - (3) The Respondent did not know how to use 'Leap' book keeping software to conduct client account reconciliations, she was still learning how to use the software.

Audit under the SRA Accounts Rules

55. The firm's accountant's, Zeeshan Khan, had never conducted a Solicitors Accounts Rules audit of the Firm. The Respondent confirmed to the FIO in the interview on 4 January 2019, that no Solicitors Account's Rules audit had ever been done. She said, "*No. Audit no, they never did.*"

Breaches of the Accounts Rules

56. As the principle of the firm the Respondent was under an obligation to ensure compliance with the Accounts Rules both by herself and everyone employed in the firm. She failed to do so.
57. The books of account were not in compliance with the 2011 Accounts Rules. The Respondent therefore was in breach of Rules 1.2(e), 1.2(f), 1.2(i), 6, 12, 29.2 and 29.12 of the 2011 Accounts Rules.

Allegation 1.3 – Failure/delay in replacing a shortfall

58. The minimum cash shortage as at 30 November 2018 was in the sum of £245,100.00.
59. The Respondent had been aware that there was a shortage of £80,000.00 on the Ms C matter when the settlement agreement was signed on 11 September 2018. The monies

had been improperly transferred from client to office account between January 2018 to September 2018. The monies were not replaced until 10 December 2018.

60. The remaining shortage of £165,100.00 incorrectly paid from the firm's client bank account, relating to Ms C by the Respondent, to unknown third parties was still outstanding as at the date of the intervention on 12 February 2019.
61. The Respondent was unable to replace the monies from her own funds. There was an ongoing dispute with respect to responsibility for cover of this sum between the Respondent and her professional indemnity insurers for the 2017/2018 indemnity period and the insurers she sought to renew her PII with for the 2018/2019 indemnity period.

Breaches of the Accounts Rules

62. Accordingly, by the delay in the Respondent replacing the £80,000.00 and her failure to replace the £165,100.00, the Respondent has breached Rule 7.1 of the 2011 Accounts Rules. Public confidence in the Respondent would be undermined in circumstances where she was unable to replace all client monies having used it for her own benefit and having paid it away to incorrect third parties. By failing to replace all the shortage promptly, she failed to protect client money.

Allegation 1.4 - Failure to run the business effectively and in accordance with proper governance and sound risk management principles

63. The Respondent qualified as a lawyer in 1998 in India, she completed the QLTT test and qualified as a solicitor in May 2006. She completed work experience at a firm in England as a fee earner conducting mostly immigration matters.
64. On 1 December 2007 the Respondent opened the Firm. This was the first time she had been a manager of a Firm. Although the Firm had always had a client bank account, the Firm did not start using it until 2013. When asked by the FIO in the interview on 4 January 2019; "*.. And had you ever, previously operated or managed a client bank account at any other Firm, ...*" The Respondent replied; "*No*".

Accounting records/systems

65. The Respondent failed to establish or maintain any proper accounting systems or internal controls over those systems or keep accounting records properly written up as

detailed in paragraphs 42 to 57 above. As stated in paragraph 42 above, the Respondent agreed that the accounting records of the Firm were in a “mess”.

Incorrect payments made out of client account

66. The Respondent sent money in the total sum of £245,100.00 without taking precautions or adequate scrutiny with regard to who it was being sent to. See paragraphs 18 – 29 above) In the email on 10 September 2018 at 12.08pm she was informed by Mr Sankhla of Appleby Shaw to which account £70,000.00 was to be sent. She received a second email, purportedly from Mr Sankhla, on the same day at 2.24pm. This completely amended the details to where the money should be sent. It referred to a different bank and the payee was given as Amrita Proag Appleby. A further email came from the address: bsankha@applebyshaw.corn. The Respondent made no enquiries with Mr Sankhla regarding this change in details or that the monies were now to go to an individual rather than the firm of Appleby Shaw Solicitors.
67. Similarly the payment of £95,000.00 was made out of client bank account supposedly to Ms C, over 11,12 and 13 September 2018. The Respondent had received an email purportedly from Ms C on 11 September 2018 at 8.33pm asking for payment to be made to a ‘Sumithra Konduru’ at First Direct Bank. When arrangements were being made to send the remaining monies, different bank details were given. A further, £100 was paid in accordance with the new details.
68. The SRA publish an Annual Risk Outlook. A key feature of this for the last few years has been the increase in Cyber Crime and particularly email type fraud. The Respondent confirmed in the interview on 4 January 2019 with the FIO that she reads the Risk Outlook.
69. There were no systems in place to make checks concerning email type fraud. Nothing with regard to confirming the authenticity of emails. The second email from Mr Sankhla should have raised suspicion. The bank details in the second e-mail were completely different to the first e-mail and rather than the monies going to the firm they were to be sent to an individual. The fourth email from Mr Sankhla detailed the email address as .corn rather than .com. A telephone call to Mr Sankhla at Appleby Shaw to confirm the correct details should have been made.

70. Likewise, the emails from Ms C should have raised suspicion. Monies were being sent to a third party and later the bank details being changed. A call to Ms C should have been made to check the details.

Breaches of the SRA Principles

71. Accordingly, the Respondent failed to have systems in place to maintain control over the accounting practises of the Firm and the protection of client's monies. There was no awareness by the Respondent of email fraud notwithstanding the SRA's Risk outlook. Had the Respondent had systems in place to detect cyber fraud she could have prevented the fraud from taking place. Similarly she could have prevented the fraud if she had scrutinised the emails received or phoned the genuine recipients to confirm the bank details before making payment.

72. The Respondent has therefore failed to run the firm effectively and in accordance with proper governance and sound financial and risk management principles. The Respondent had had no previous experience of managing a practice in England and Wales and had not previously operated a client account. She is in breach of Principle 8 of the 2011 Principles. The public would expect a solicitor to have effective systems in place for the good management of the business. She has therefore failed to behave in a way that maintains the trust the public places in her and the provision of legal services in breach Principle 6 of the 2011 Principles. By her failure to run the Firm effectively she has further failed to protect client monies in breach of Principle 10 of the SRA Principles and failed to discharge her duties as a COLP and COFA in breach of Rule 8.5 of the 2011 Authorisation Rules.

Allegation 1.5 – Failure to comply with an undertaking.

73. An undertaking was given to Appleby Shaw in a letter dated 15 August 2017, as detailed in paragraph 15 above. The Respondent undertook to hold the money (£331,893.31) to the order of Appleby Shaw pending agreement or an order of the court. The agreement was reached on the 11 September 2018.

74. Between January 2018 and September 2018, the Respondent used part of these monies in the sum of £80,000.00 for her own purpose. The monies were transferred from the client account to her office account to use for redecoration and refurbishment of the office and other office expenses.

75. During the interview with the FIO on the 4 December 2018 she agreed that she had breached the undertaking given to Appleby Shaw as she had improperly withdrawn money from the firm's client account.

Breaches of the SRA Principles and Code of Conduct

76. Undertakings form an integral part in providing legal services and should be able to be relied upon. The Respondent by failing to comply with the undertaking, in using part of the monies for her own purpose, rather than holding the monies to the order of Appleby Shaw has acted without integrity in breach of Principle 2 of the 2011 Principles. She has further failed to behave in a way that maintains the trust the public places in her and in the provision of legal services in breach of Principle 6. She has further failed to comply with her regulatory obligation in breach of principle 7 and has failed to achieve outcome 11.2 of the Code of Conduct in her failure to perform the undertaking.

Allegation 1.6 – Conflict of interest

77. The Respondent borrowed £80,000.00 from a client of the firm. The monies were used to replace the shortage on client account on 10 December 2018. Payment was then subsequently made to Ms C in the sum of £80,000.00 on 11 December 2018.
78. The client had confirmed in a letter dated 6 December 2018 to the Respondent that she could take the £80,000.00 from the sale proceed of a property and that interest would be charged at 4%. There were no written terms regarding the repayment of the loan.
79. There was no evidence on the file that the client had been advised by the Respondent to obtain independent legal advice or that they had received independent legal advice.

Breaches of the SRA Principles and Code of Conduct

80. According, a conflict or a significant risk of a conflict of interest arose. She allowed her independence to be compromised and failed to act in the best interest of the client by borrowing a large amount of money from her and failing to ensure that she took independent legal advice in respect of the loan. The terms of the loan were unclear. She is therefore in breach of Principles 3 and 4 of the 2011 Principles and has failed to achieve outcome 3.3 of the Code of Conduct.

Dishonesty

81. The Respondent's actions were dishonest in accordance with the test for dishonesty laid down by the Supreme Court in Ivey v Genting Casinos (UK) Ltd [2017] UKSC 67, which applies to all forms of legal proceedings:

"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".

82. At the time the Respondent misappropriated client's monies the actual state of her knowledge or belief concerning those actions was as follows:

- (1) The Respondent at the time of the misconduct had been admitted as a solicitor for 12 years, 11 of which practising as the sole practitioner of the firm. She was also the firm's COLP and COFA. As a solicitor running her own practise she understood the nature of her professional and fiduciary obligations towards client money and the sacrosanct nature of the client account.
- (2) Despite this, inappropriate transfers were made by the Respondent from client account to the office account. The transfers were made to fund office expenses and payments and refurbishing the office. She did not have the authority from the client to do this. It would have been apparent to any honest solicitor that it was inappropriate to utilise client money in this way.
- (3) The Respondent agreed in the interview with the FIO on 4 January 2019 that she had been dishonest in taking Ms C's money from client account as she had not asked her. She was asked; "...So, do you believe by improperly withdrawing £80,000.00 or at least £80,000.00 from client bank account of Ms C's money, you've been dishonest? She said; "dishonest to our client" The FIO said; " To Miss C? Is that

because you, you said she didn't give consent for you to do that?" The Respondent answered; " *Because I did not ask her*".

- (4) The Respondent identified the shortage of £80,000.00 on the client bank account of Ms C when the Agreement over the distribution of the net sale proceeds of the Drayton property was concluded on 11 September 2018. The Respondent had not reported the shortage to the SRA. The monies were replaced on 10 December 2018 from a loan from a client. This was on the day that the FIO started his inspection at the firm.
- (5) The Respondent therefore knowingly utilised client's monies to fund office expenses and payments and for refurbishing the office.
- (6) The Respondent failed to show the improper withdrawals from client bank account on the ledger for the matter.
- (7) The Respondent's conduct was deliberate and can be categorised as a course of conduct, it spanning a nine month period or there about. They were not momentary aberrations or isolated events.

83. In light of the Respondent's state of knowledge and belief as set out above, the Respondent's actions in misappropriating client's money were dishonest by the objective standards of ordinary, decent people.

Mitigation

84. The following is put forward by the Respondent as mitigation for the breaches admitted above. These are not adopted or necessarily accepted by the SRA:

84.1 she apologies for her actions in falling below the standards expected of a solicitor in practice.

Agreed Outcome

85. The Respondent accepts that the seriousness of her admitted misconduct is such that neither a reprimand, a fine or being suspended from practice would be a sufficient sanction.

86. The Respondent accepts that the protection of the public and the protection of the reputation of the profession justifies her being struck off the Roll of Solicitors.

87. The SRA and the Respondent submit to the Tribunal that the following are appropriate outcomes and are consistent with the seriousness of the matters admitted and with the Tribunal's Guidance Note on Sanctions:

87.1 An Order that the Respondent be struck from the Roll of Solicitors; and

87.2 A further Order that the Respondent do pay a contribution towards the SRA's costs in the sum of £4,000.00.

Explanation as to why such an order would be in accordance with the Tribunal's sanction guidance.

88. The Respondent has admitted dishonesty. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanction" (5th edition), at paragraph 47, states that: "*The most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)).*"

89. In Sharma [2010] EWHC 2022 (Admin) at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:

"(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll ... That is the normal and necessary penalty in cases of dishonesty...

(b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances ...

(c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself, whether it was momentary ... or

over a lengthy period of time ... whether it was a benefit to the solicitor ... and whether it had an adverse effect on others..."

90. The following factors aggravate the seriousness of the Respondent's misconduct:

90.1 it involved dishonesty;

90.2 it was deliberate and repeated.

90.3 it continued over a period of approximately 9 months.

90.4 it involved the concealment of wrong doing.

90.5 it involved material breaches of obligations to protect the public and the reputation of the legal profession.

91. The public expects solicitors to act with integrity and behave in a way that maintains the trust the public places in them. The most serious misconduct involves dishonesty. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off.

92. There are no exceptional circumstances and this case does not fall into the small residual category of cases where a strike off would be disproportionate

93. Having regard to all the facts giving rise to the allegations, the admissions made by the Respondent and her willingness to submit to such an Order, the SRA invites the Tribunal to make an Order that the Respondent be struck off the Roll of Solicitors.

Dated this 6 day of November 2019

Suzanne Jackson

On behalf of the Applicant, the Solicitors Regulation Authority

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Jayanthi Reddy Saganti