

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12163-2021

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

MEENA KUMARI
TEENA BANGA

First Respondent
Second Respondent

Before:

Mr A Ghosh (in the chair)
Mr W Ellerton
Mrs L McMahon-Hathway

Date of Hearing: 21-23 June 2021

Appearances

Ms Nimi Bruce, barrister of Capsticks of 1 St George Road, London, SW19 4DR, for the Applicant.

Mr Jonathan Goodwin, solicitor advocate, of Jonathan Goodwin Solicitors Advocate Ltd, 69 Ridgewood Drive, Pensby, Wirral CH61 8RF for the Respondents.

JUDGMENT

Allegations

Allegations against the First Respondent

1. The allegations against the First Respondent are that:
 - 1.1 Between 2013 and 2017, she caused or allowed her firm to act in conveyancing transactions which she knew to be fraudulent and, in doing so, she breached any or all of Principles 2, 4, 5, 6 and 10 of the SRA Principles 2011.
 - 1.2 Alternatively, between 2013 and 2017, she caused or allowed her firm to act in conveyancing transactions which she knew or ought to have known, bore:
 - 1.2.1 a number of suspicious features;
 - 1.2.2 the hallmarks of fraud; and/or
 - 1.2.3. the hallmarks of money laundering;
 and, in doing so, she breached any or all of Principles 2, 4, 5, 6 and 10 of the SRA Principles 2011 and failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011.
 - 1.3 Between 2013 and 2017, in relation to the transactions referred to at allegation 1.1 and 1.2 above, she failed to ensure that she and/or her firm:
 - 1.3.1 carried out proper enquiries in relation to those transactions;
 - 1.3.2 properly advised her clients regarding the payments to third-party companies;
 - 1.3.3 obtained her clients' informed consent to make the payments to those third party companies; and therefore breached any or all of Principles 2, 4, 5, 6, 8 and 10 of the SRA Principles 2011 and Outcome 1.2 of the SRA Code of Conduct 2011.
 - 1.4 Between 2013 and 2017, in relation to the transactions referred to at allegation 1.1 and 1.2. above, the First Respondent entered into a referral arrangement and received fee income as a result of that work in circumstances which compromised her independence and that of her firm, and accordingly breached Principle 3 of the SRA Principles 2011.

Allegations against the Second Respondent

2. The allegations against the Second Respondent are that:
 - 2.1 Between 2013 and 2017, she acted in conveyancing transactions which she knew to be fraudulent and, in doing so, she breached any or all of Principles 2, 4, 5, 6 and 10 of the SRA Principles.
 - 2.2 Alternatively, between 2013 and 2017, she acted in conveyancing transactions which she knew or ought to have known, bore:

2.2.1 a number of suspicious features;

2.2.2 the hallmarks of fraud;

and/or

2.2.3 the hallmarks of money laundering;

and, in doing so, she breached any or all of Principles 2, 4, 5, 6 and 10 of the SRA Principles 2011 and failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011.

2.3 Between 2013 and 2017, in relation to the transactions referred to at allegations 2.1 and 2.2 above, she failed to ensure that she:

2.3.1 carried out proper enquiries in relation to those transactions;

2.3.2 properly advised her clients regarding the payments to third-party companies;

2.3.3 obtained her clients' informed consent to make the payments to those third-party companies; and therefore, breached any or all of Principles 2, 4, 5, 6, and 10 of the SRA Principles 2011 and Outcome 1.2 of the SRA Code of Conduct 2011.

3. In respect of allegations 1.1 and 2.1, it is the Applicant's case that the Respondents acted dishonestly. In respect of allegations 1.2 and 2.2, it is the Applicant's case that the Respondents acted dishonestly or alternatively recklessly, but neither dishonesty nor recklessness are essential parts of the allegations and the Tribunal may find those allegations proved without finding that the Respondents acted dishonestly or recklessly.

4. In respect of allegations 1.3 and 2.3, it is the Applicant's case that the Respondents acted recklessly, but recklessness is not an essential part of the allegations and the Tribunal may find those allegations proved without finding that the Respondents acted recklessly.

Documents

Applicant

- Application dated 21 January 2021
- Rule 12 and Rule 15 Statement with Exhibit 'IWB1' dated 21 January 2021
- Schedule of Costs at issue 21 January 2021
- Schedule of Costs dated 14 June 2021

Respondent

- The First and Second Respondent's Answer dated 30 March 2021
- First Respondent's letter to SRA dated 28 September 2020
- Witness statement of First Respondent dated 29 April 2021
- Witness statement of Second Respondent dated 29 April 2021

- First and Second Respondents' Financial Statements dated 26 May 2021

Preliminary Matter

5. Mr Goodwin disclosed to the Tribunal that he had appeared in a previous disciplinary matter before the Tribunal in which he had been instructed by the Applicant with respect to allegations against persons RB and SC, both of whom featured in the present matter. In the earlier case RB and RC had been, respectively, struck off the roll of Solicitors and made subject to a s.43 Order on 24 January 2011.
6. In the present proceedings the First and Second Respondent were represented, initially by another representative who had fallen gravely ill and who could no longer represent their interests before the Tribunal. In the circumstances Mr Goodwin, had been instructed at an advanced stage in the proceedings and his connection to RB and SC in the previous matter had not been immediately obvious.
7. Mr Goodwin did not consider that he was conflicted in this matter as the two sets of proceedings were entirely different and separated by a period of over 10 years. The fact of the findings and the sanction with respect to RB and SC was a matter of public record and the First and Second Respondent in the present proceedings did not seek to go behind this decision and did not object to Mr Goodwin representing them.
8. However, Mr Goodwin wished to set this issue on the record at the outset to provide the opportunity for objections to be raised.
9. Ms Bruce for the Applicant did not object to Mr Goodwin representing the First and Second Respondent in these proceedings.
10. The Tribunal, noting the matters set out by Mr Goodwin and Ms Bruce's response, were content for the matter to proceed with Mr Goodwin representing the First and Second Respondent, the matter having been placed on the record formally.

Factual Background

The First Respondent

11. The First Respondent is a solicitor. She was admitted to the Roll on 5 February 2000. At all material times she was the manager and owner of Kumari Banga Solicitors of 179 Newhampton Road, Wolverhampton WV1 4PQ ('the Firm'), as well as its COLP, COFA and MLRO. The Firm closed on 30 June 2018.
12. The First Respondent held a practising certificate subject to conditions preventing her from acting as a manager or owner of an authorised body, from offering legal services as a freelance solicitor, and from acting as a COLP or COFA for any authorised body. She is required to inform any actual or prospective employer of these conditions and the reasons for their imposition.

The Second Respondent

13. The Second Respondent is a solicitor. She was admitted to the Roll on 15 October 2013, having previously undertaken her training contract at the Firm. At all material times the Second Respondent was a trainee solicitor or solicitor employed by the Firm, working under the supervision and direction of the First Respondent. The Respondents are sisters.
14. The Second Respondent held a practising certificate subject to conditions preventing her from acting as a manager or owner of an authorised body, from offering legal services as a freelance solicitor, and from acting as a COLP or COFA for any authorised body. She is required to inform any actual or prospective employer of these conditions and the reasons for their imposition.
15. Neither the First nor the Second Respondent was currently working in the legal sector.

Witnesses

16. The following gave evidence under oath:
 - The First Respondent
 - The Second Respondent

Findings of Fact and Law

17. The Applicant was required to prove the allegations on the civil standard, that of the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondents' rights to a fair trial and to respect for their private and family life under Articles 6 and 8 respectively of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
18. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

The facts and matters relied upon by the Applicant in support of the Allegations.

19. On 20 June 2017, a solicitor at VL, a law firm regulated by the Applicant, notified the Applicant of concerns that the Firm had been involved in a suspected property fraud committed by a business called SP.
20. The alleged fraud involved clients selling their homes on assurances that they could continue to live in them after the sale, with the clients ultimately receiving no money from the proceeds of sale, or substantially less than the net sale price. VL was representing clients who were bringing professional negligence claims against the Firm arising out of conveyancing transactions involving SP, where the Firm had acted for the sellers who were alleged to be the victims of the fraud.

21. The Applicant commissioned an inspection at the Firm by a Forensic Investigation Officer, Mrs Dhaliwal (*regrettably now deceased*). The inspection commenced on 18 September 2017 and was completed on 13 August 2018.
22. Following the completion of the First FI Report, the Firm's insurers notified the Applicant that they were excluding their liability to indemnify the Firm for the negligence claims brought by the clients of VL on the basis that they arose from a dishonest act or omission committed or condoned by the Respondents. A further forensic inspection was therefore carried out by another Forensic Investigation Officer, Mr Oliver Baker. This inspection was limited to consideration of documentation disclosed to the SRA by Firm B, solicitors acting for the Firm's insurers, and seven of the Firm's client files. It was completed on 10 February 2020.

Outline of the alleged fraud

23. The alleged fraud operated by SP and those associated is summarised as follows:
 - SP offered to sell its customers' properties quickly. In several of the relevant transactions, SP assured its customers that they could remain in their homes after selling them.
 - SP obtained customers' details and paperwork for the conveyancing transaction and sent them on to a law firm such as the Firm, which processed the conveyance.
 - In the large majority of relevant transactions ('the SP Transactions') (i.e. 30 of the 34 conveyances conducted by the Firm which proceeded to completion), very substantial sums were paid out of the proceeds of sale of the properties to third party companies, being one or more of: Company IIS, Company A, Company KF and Company DD ('the Companies').
 - In the 30 SP Transactions featuring such payments, a total of £2,379,472.62 of the clients' funds were paid to the Companies. The invoices were variously (and inconsistently) described as being in respect of either loans or fees charged.
 - In respect of the majority of the Companies, invoices from the Companies were sent to the Firm by SP. In some cases, invoices were also sent or purportedly sent from a company called Company FH (which the Applicant understood to be a genuine not-for-profit property developer) but directing that payment be made into an account held by Company A.
 - In the minority of the SP Transactions (4 of the 34 conveyances conducted by the Firm which proceeded to completion), no payment was made to any of the Companies, but the transaction proceeded at a undervalue by reference to the market price at the time.
 - The First Respondent confirmed that these four transactions involved their client selling property for less than the market value.
 - As set out below, the Companies were all connected to one or both of two individuals referred to herein as Person RB and Person SC. In twenty-eight of the

completed SP Transactions undertaken by the Firm, the purchaser of the property was Person RB, Person SC, another individual with the same surnames, or an individual with the same address as Person SC (anonymised in this judgment as Address 103 LR).

- Accordingly, the majority of the matters dealt with by the Firm via SP involved payments of tens or hundreds of thousands of pounds being made out of the proceeds of sale to companies which were demonstrably connected to the purchasers of the properties, who were the same group of individuals in almost all of the cases.
- It was the Applicant's case that that connection was obvious or alternatively would have been obvious to any individual undertaking the most basic enquiries as to the nature of (and justification for) the payment being made.

The Companies

24. Straightforward searches with Companies House in respect of the Companies, accessed at the time of the First FI Report showed that, as a matter of public record:

- Company IIS is or was owned by Person RB and Person SC. Person RB and Person SC respectively are and were directors of the Company. Person SC's stated contact address (anonymised in this judgment as 'Address 72 RR') is given as the registered address for the company.
- Company A is or was owned by Person RB and Person SC. Person RB was a director at the time of the latest filing, and Person SC was briefly a director as well.
- The company's registered address and the contact address for Person RB was again Address 72 RR.
- Company KF is or was owned by Person RB and Person SC. Person RB was a director at the time of the latest filing, and Person SC was briefly a director as well. The company's registered address and the contact address for Person RB and Person SC was Address 72 RR.
- Company DD was again registered at Address 72 RR, although a different address (anonymised as 'Address 38 HS') is also recorded by Companies House. Person RB was again director and secretary of that company, resigning from those roles in January 2013 and January 2015 respectively. The annual return for the Company dated 26 January 2016 records Person RB's profession as a lawyer, and records that Person RB is the sole shareholder of the company. Another individual ('Person GS') is also recorded as a director in Companies House documentation, although not named in the latest annual return. GS's service address is given as Address 38 HS.
- In addition to the above matters of public record, the correspondence addresses for the Companies given to, and used by, the Firm were the same - each of Company

DD, Company KF, and Company IIS used the same PO Box address in Birmingham.

- As noted above, Company FH is a substantial property development company and it was inferred by the Applicant that SP used the name of a verifiable property company to justify purported invoices which required payment to be made, not to Company FH, but to Company A, owned and operated by SP's associates, Person RB and Person SC.
- Person RB and Person SC are respectively a former solicitor and former solicitor's clerk. On 24 January 2011 Person RB was struck off the Roll for dishonest misconduct, and the same division of the Tribunal made an order that no recognised body or manager or employee of such a body shall permit Person SC to be a manager of the body or have an interest in the body. A straightforward internet search in respect of Person RB revealed that he was subsequently convicted of contempt of Court, and received a custodial sentence of six months, for holding himself out as a solicitor on thirteen occasions after having been struck off the Roll

The Firm's involvement in the SP Transactions

25. In or around 2013, a representative of SP telephoned the Firm, asking if the Firm was interested in receiving referrals of conveyancing transactions. The First Respondent returned the call and spoke to an individual named RS. RS subsequently attended a meeting at the Firm's premises and gave the First Respondent an explanation of how it operated. The Firm also worked with another individual representing SP, Person TS.
26. The First Respondent stated in interview with the FIO that no written due diligence was conducted on SP. The only enquiries made by the Firm were two meetings and checks through searches on Google. Neither the First Respondent nor the Second Respondent knew how or whether SP was paid for the referral.
27. Between 2013 and 2017, SP referred 44 conveyancing matters to the firm: 34 of those transactions were completed. The Firm was paid a fixed fee of £600 in respect of each transaction. The referrals accounted for between 9% and 15% of the firm's annual turnover (as declared to the Applicant) for the relevant year. During this time, the Firm was restricted to acting for only cash purchasers and sellers because it was not on the mortgage lenders' panels because at that time the mortgage lenders' panel did not have firms which were sole practices. The Second Respondent had conduct of the matters under the First Respondent's supervision.
28. It was the Applicant's case that notwithstanding the fact that the Firm had conducted no proper due diligence investigation of SP, the Firm provided Person RS with documents, including blank or template client care letters and conveyancing forms. Person RS or Person TS issued the client care letters on behalf of the Firm (although the Firm later reissued client care letters in certain of the matters) and provided the Firm with the documentation that its clients were required to complete. The Firm did not undertake the usual tasks of advising or taking instructions on the questionnaires and forms exchanged during the conveyancing process (such as the Law Society's

Property Information Form). All such documentation was provided to the Firm by Person RS or Person TS.

29. During an interview with representatives of the Firm's insurers, the Respondents confirmed that this paperwork was completed before the matter was referred to the Firm, and the First Respondent confirmed that neither she nor the Second Respondent had asked their clients about what they had been told by Person RS about the documentation.

Details of the SP Transactions

30. The Applicant's investigation revealed certain common features exemplified below.
31. *Example 1: Client PJE*
 - 31.1 Person RS obtained the client's signature to a copy of the Firm's client care letter and completed conveyancing documents without reference to the Firm. The client gave authority to the Firm to act in the sale of the property in a form which expressly stated that the authority was given 'of my own free will'. The Firm did not investigate and neither Respondent was aware of whether that was true or not. The Firm's client was vulnerable.
 - 31.2 The Firm engaged in discussions with the purchaser's solicitors before it had made any contact with its own client.
 - 31.3 In June 2013, the Firm engaged in extensive communications with solicitors for the client's ex-wife in respect of a debt owed to her by their client. No such communication took place with the Companies who received payments.
 - 31.4 The Firm did not ascertain whether the client had indeed signed the documents that the Firm had been provided with. The Firm did not investigate the basis for the purported charges being levied, advise their client in relation to the invoices from the Companies or address the discrepancies between the invoice and the explanation provided by RS as to what the payments concerned.
 - 31.5 The Firm wrote to both of the relevant Companies at the same address.
 - 31.6 The Respondents were (or alternatively the Second Respondent was) aware that the client was to remain in the property after completion and wrote to him at that address after completion had taken place. Nonetheless, the Firm negotiated the contract of sale, and advised their client to enter into the contract, requiring him to give vacant possession of the property. The Firm's client subsequently fell into rent arrears with the purchaser and was evicted from his home.
 - 31.7 In June 2016, the Firm received a letter from the Citizens Advice Bureau stating that the client had raised concerns about the sale of his property and what had happened to the proceeds of sale. The letter recorded that the client had said he did not recognise the names of the Companies, or why they had received the money. The letter further stated that the client had been informed at the time that the payments related to insurance and had specifically confirmed that there were no loans.

- 31.8 The Firm's client has subsequently provided a witness statement to police denying that the loans and the payments had been authorised or that he had provided the Firm with a letter to that effect.

32. *Example 2: Clients PHA and REJA*

- 32.1 Person RS obtained the clients' signature to a copy of the Firm's client care letter and completed conveyancing documents without reference to the Firm. The clients gave authority to the Firm to act in the sale of the property in a form which expressly stated that the authority was given 'of our own free will'. The Firm did not investigate and neither Respondent was aware of whether that was true or not. The Firm's clients were vulnerable.
- 32.2 In May and June 2016, the Firm engaged with the clients' mortgage lender concerning the repayment of the mortgage and obtained at least three redemption statements. No such discussions took place, and no such statements were obtained, from the Companies. The Firm did not enquire as to why one invoice purporting to be from Company FH required payment to a third party. The Firm did not investigate the basis for the purported charges being levied or advise their client in relation to the invoices from the Companies.
- 32.3 The Respondents were (or alternatively the Second Respondent was) aware that the clients were to remain in the property after completion and wrote to them at that address after completion had taken place. Nonetheless, the Firm negotiated the contract of sale, and advised their clients to enter into the contract, requiring them to give vacant possession of the property.

33. *Example 3: Clients BJW and MHW*

- 33.1 Person RS obtained the clients' signature to a copy of the Firm's client care letter and completed conveyancing documents without reference to the Firm. The clients gave authority to the Firm to act in the sale of the property in a form which expressly stated that the authority was given 'of our own free will'. The Firm did not investigate and neither Respondent was aware of whether that was true or not. The Firm's clients were vulnerable.
- 33.2 In April and May 2015, the Firm engaged with the clients' mortgage lender concerning the repayment of the mortgage and obtained a redemption statement. No such discussions took place, and no such statements were obtained, from the Companies. The Firm wrote to both Companies at the same address but did not investigate the basis for the purported charges being levied or advise their client in relation to the invoices from the Companies.
- 33.3 The Respondents were (or alternatively the Second Respondent was) aware that the clients were to remain in the property after completion and wrote to them at that address after completion had taken place. Nonetheless, the Firm negotiated the contract of sale, and advised their clients to enter into the contract, requiring them to give vacant possession of the property.

34. *Example 4: Clients BFP and SAP*

- 34.1 Person RS obtained the clients' signature to a copy of the Firm's client care letter and completed conveyancing documents without reference to the Firm. The clients gave authority to the Firm to act in the sale of the property in a form which expressly stated that the authority was given 'of our own free will'. The Firm did not investigate and neither Respondent was aware of whether that was true or not. The Firm's clients were vulnerable. The Firm commenced acting before it had made any contact with its own client.
- 34.2 In July and August 2016, the Firm engaged with the clients' mortgage lender concerning the repayment of the mortgage and obtained a redemption statement. No such discussions took place, and no such statements were obtained, from the Companies. The Firm did not enquire as to why one invoice purporting to be from Company FH required payment to a third party. The Firm did not investigate the basis for the purported charges being levied or advise their client in relation to the invoices from the Companies.
- 34.3 The Firm's client, SAP, subsequently provided a witness statement to the police confirming that she expected to receive the full amount of the proceeds of sale and that neither she nor BFP were told anything different, despite having asked about the amount that would be received. SAP denied having authorised any payments to the Companies.

35. *Example 5: Client CRH*

- 35.1 Person RS obtained the client's signature to a copy of the Firm's client care letter and completed conveyancing documents without reference to the Firm. The client gave authority to the Firm to act in the sale of the property in a form which expressly stated that the authority was given 'of my own free will'. The Firm did not investigate and neither Respondent was aware of whether that was true or not. The Firm's client was vulnerable. The Second Respondent was aware that the client was unfamiliar with the conveyancing process.
- 35.2 The Firm engaged in discussions with the purchaser's solicitors before it had made any contact with its own client. No discussions as to the charges said to be payable on completion took place with the Companies, and no redemption statements were obtained from them. The Firm did not enquire as to why one invoice purporting to be from Company FH required payment to a third party. The Firm did not investigate the basis for the purported charges being levied or advise their client in relation to the invoices from the Companies.
- 35.3 Immediately prior to completion, the client was confused about why almost £150,000 was being paid to the Companies. The Firm's attendance note records that the Firm explained about [Person RS's] two companies' and that the client thereafter agreed that the Firm should go ahead with completion.

36. *Example 6: Clients RP and SP*

- 36.1 Person RS obtained the clients' signature to a copy of the Firm's client care letter and completed conveyancing documents without reference to the Firm. The clients gave authority to the Firm to act in the sale of the property in a form which expressly stated that the authority was given 'of our own free will'. The Firm did not investigate and neither Respondent was aware of whether that was true or not. The Firm's clients were vulnerable. The Firm commenced acting before it had made any contact with its own client.
- 36.2 The Firm entered into extensive discussions with the clients' lenders in respect of existing loans. No such discussions took place with the Companies. The Firm did not investigate the basis for the purported charges being levied or advise their client in relation to the invoices from the Companies.
- 36.3 The Firm paid one of the Companies, Company IIS, less than the amount invoiced. There is no explanation of that shortfall and no evidence that it was ever discussed with Company IIS. The lower amount of the payment to Company IIS meant that the client had precisely the correct amount available from the proceeds of sale to repay genuine loans.
- 36.4 The Respondents were (or alternatively the Second Respondent was) aware that the clients were to remain in the property after completion and wrote to them at that address after completion had taken place. Nonetheless, the Firm negotiated the contract of sale, and advised their clients to enter into the contract, requiring them to give vacant possession of the property.

37. *Example 7: Client MR*

- 37.1 Person RS obtained the client's signature to a copy of the Firm's client care letter and completed conveyancing documents without reference to the Firm. The client gave authority to the Firm to act in the sale of the property in a form which expressly stated that the authority was given 'of my own free will'. The Firm did not investigate and neither Respondent was aware of whether that was true or not. The Firm's client was vulnerable.
- 37.2 In January 2015 and April 2016, the Firm engaged with the client's mortgage lender concerning the repayment of the mortgage and obtained a redemption statement. No such discussions took place, and no such statements were obtained, from the Companies. The Firm did not investigate the basis for the purported charges being levied or advise their client in relation to the invoices from the Companies. On the contrary, on 6 April 2016 the Second Respondent specifically asked RS to forward her relevant details for any payments due to the Companies, which had not previously been provided.
- 37.3 The Respondents were (or alternatively the Second Respondent was) aware that the client was to remain in the property after completion and wrote to him at that address after completion had taken place. Nonetheless, the Firm negotiated the contract of sale, and advised their client to enter into the contract, requiring him to give vacant possession of the property.

38. *Example 8: Client KH*

- 38.1 Between July 2016 and December 2016, the Firm acted for a client, KH, in respect of a SP Transaction. Person RS obtained the client's signature to a copy of the Firm's client care letter and completed conveyancing documents without reference to the Firm. Due to concerns expressed by the client about payments to the Companies, the matter proceeded differently from the other matters set out above.
- 38.2 On 21 October 2016 the client held a telephone conversation with the Second Respondent during which the client expressed the view that he did not recall receiving documents from the Firm. On 24 October 2016 the client informed the Firm that Person RS was providing financial assistance to him, and thereafter the client expressed concern about delays to an advance of £5,000 that he said RS had promised to him.
- 38.3 On 31 October 2016, according to an attendance note on the Firm's file, the client 'stated he could not understand why he was only receiving £91,000.00 when the house was being sold for £170,000.00'. The Second Respondent indicated that in those circumstances, the Firm could not proceed to completion, and that it was "imperative" that the client speak to Person RS to discuss whether he had signed agreements in respect of the additional papers. The Firm also informed Person RS of their client's concern.
- 38.4 On the morning of 1 November 2016 the client informed the Firm that he would not be proceeding with the transaction unless it happened by the end of that week, but the Firm indicated that it could not currently continue to completion because the client had indicated that he did not understand what would happen to the proceeds of sale.
- 38.5 According to an attendance note dated 1 November 2016 at 17:00, the client then telephoned the Firm to say that he had found an agreement between himself, Company A and Company IIS, and that while he did not recall signing it, he must have done so. According to the attendance note, the client asked about the agreement providing for agent's fees of £79,000, and the Second Respondent explained that these would be paid on completion. The Second Respondent has confirmed during the course of the first Forensic Investigation that she would have had a copy of the agreement at the time of the call.
- 38.6 Despite the call on 1 November 2016 during which the client stated that he had previously signed the agreement but could not remember doing so, the copy of the agency agreement provided during the first Forensic Investigation is dated 30 November 2016. It provides for an agency fee of £90,000 and offers a cancellation right.
- 38.7 As recorded in an attendance note dated 24 November 2016, the Second Respondent was aware that their client urgently needed funds to be able to keep promises he had made to others about payments he would be making.
- 38.8 On 25 November 2016 at 12.03 the client informed the Firm that Person RS had reduced the price by £11,000. A further attendance note of the same day records that the client asked if the Second Respondent was connected to Person RS, and asked

why he could not have used his own solicitors in the transaction. The Firm was therefore aware that its client had not had an effective choice of representation. On 29 November 2016 the client informed the Firm that he was inclined to withdraw from the transaction.

- 38.9 On 30 November 2016, in giving instructions to the Firm to proceed with the transaction, the client expressed the view that he was being ‘ripped off and that having spoken to RS, he was ‘not massively’ clearer about where the proceeds of sale would be going.

The Respondents’ knowledge of the fraudulent or suspicious nature of the SP Transactions

39. Ms Bruce, for the Applicant, submitted that the Respondents were aware that the SP Transactions were fraudulent. Alternatively, the Respondents were aware that the SP Transactions were suspicious and carried the hallmarks of a fraudulent transaction.
40. In support of the above, Ms Bruce relied on the following features of the transactions which she said that the Respondents, as the solicitors with day-to-day conduct of the matter (in respect of the Second Respondent) and with responsibility for supervising the matter and checking the relevant payments (in respect of the First Respondent) must have been aware of:
- The majority of transactions involved the highly unusual feature that substantial sums were to be paid to third parties out of the proceeds of sale, significantly reducing or even eliminating any net proceeds for the Firm’s clients.
 - No coherent, consistent or credible explanation for the highly unusual payments was provided by SP. According to the First Respondent they were variously described as administrative fees, loans or the payment of rent in advance.
 - The majority of transactions involved the same small group of purchasers, with frequent repetition of names and addresses.
 - SP, and in particular Person RS and Person TS, played a highly unusual role in providing documentation to and from the Firm’s clients. They also provided the invoices from the Companies.
 - As set out above, the Respondents were aware that, at least in some cases, their clients would be renting back the properties that they were selling in the transaction. The First Respondent informed Mrs Dhaliwal during her investigation that the Firm was told by its clients that the clients would be sorting this directly with the purchasers and, with one exception, the Firm was not involved in making arrangements in respect of the tenancy agreement.
 - In some of the SP Transactions, the sale price was reduced shortly before the transaction completed.

- As set out above, the Companies made repeated use of the same PO Box as a contact address. The use of a PO Box, and especially the same PO Box being used by multiple companies, was a suspicious feature of the transactions given the sums purportedly being charged by the Companies for their alleged services.
 - In June 2016, the Firm received a letter from the Citizens Advice Bureau in respect of one client, Client PJE, informing them that their former client did not recognise the Companies, that there had been no loans secured against the property, and suggesting that their client had received a yet further, inconsistent explanation as to third party charges. The Firm took no steps to investigate such matters but continued to work on the SP Transactions.
41. On 14 September 2016, an anti-money laundering police officer contacted the Firm, asking about payments made to the Companies in the matter conducted by the Firm for Client CRH, who had been referred to the Firm by SP. The First Respondent declined to discuss the matter with the police in the absence of client consent. Despite concerns about the authenticity of the transactions and payments being raised by the police, the Firm continued to work with SP. Further matters completed after that date.
- In June 2017, both Respondents were interviewed by the police under caution. They thereafter ceased working with SP but completed one further transaction before doing so on 23 June 2017.
42. During the interviews conducted by representatives of the Firm's insurers, the Respondents expressly confirmed that they were aware of many of the above matters,
43. Furthermore, it was said that the transactions were suspicious on the basis that they bore hallmarks of money-laundering schemes, for the reasons set out below.

SP Transactions bore the hallmarks of money-laundering.

44. The First Respondent was the Firm's MLRO and had undertaken training on anti-money laundering measures. The First Respondent was or ought to have been aware of the SRA's Warning Notice on Money Laundering and Terrorist Financing, first published in December 2014 and updated thereafter.
45. As a qualified solicitor conducting conveyancing transactions from October 2013 onwards, the Second Respondent also ought to have been aware of the Warning Notice from its publication in December 2014 onwards. The Warning Notice on Money Laundering and Terrorist Financing specifically draws attention to the following risk factors and suspicious features:
- Use of intermediaries by clients.
 - Apparent connections with other parties to a transaction.
 - Unusual features of a transaction including the manner of execution, potentially loss-making transactions, repetitive instructions involving common features or parties, requests to make payments to third parties.
 - Unusual instructions such as clients appearing to lack knowledge about the transaction. The Warning Notice concludes that the SRA expects 'firms and

individuals to be aware of, and act properly upon, warning signs that a transaction may be suspicious’.

46. As set out above, the SP Transactions:

- Were referred to the firm through intermediaries who played an unusually central role in controlling the provision of information and documents between the Firm and its clients.
- Involved highly unusual features whereby, in the majority of such transactions, very substantial payments were made to third parties which significantly reduced or eliminated the proceeds of sale.
- Involved unusual payments to third parties which did not have obvious or coherent explanations.
- Involved intermediaries who appeared to be connected to the purchasers, or alternatively would have appeared to be connected to the purchasers had elementary enquiries been made as to the unusual circumstances of the transactions.
- Involved sellers of properties who appeared to be confused about their alleged liabilities and the amounts of the sale proceeds which they would be receiving.

47. Accordingly, the SP Transactions were characterised by numerous suspicious factors of which the Respondents were, or ought to have been aware.

48. The Firm and the Respondents were required to comply with anti-money laundering legislation including the Money Laundering Regulations 2007 (‘the 2007 Regulations’). Regulation 8 of the 2007 Regulations provide:

“8 (1) A relevant person must conduct ongoing monitoring of a business relationship.

(2) “Ongoing monitoring” of a business relationship means- (a)scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person’s knowledge of the customer, his business and risk profile; and (b)keeping the documents, data or information obtained for the purpose of applying customer due diligence measures up-to-date.

(3) Regulation 7(3) applies to the duty to conduct ongoing monitoring under paragraph (1) as it applies to customer due diligence measures.

49. Regulation 7(3), as applied by regulation 8(3), requires that the relevant person must determine the extent of ongoing monitoring on a risk-sensitive basis, and be able to demonstrate that the relevant person took appropriate measures in view of the risks of money laundering and terrorist financing. The Respondents each participated in the execution of the SP Transactions and acted for the client in those transactions.

50. Accordingly, by regulations 2 and 3 of the 2007 Regulations, each Respondent, being an independent legal professional for the purposes of regulation 3 of the 2007 Regulations, was a relevant person subject to the obligations contained in regulations 7 and 8 of the 2007 Regulations. The First Respondent was also responsible for the Firm's compliance with the 2007 Regulations.

The Respondents' failure to make necessary enquiries in their clients' interests Solicitor's duty to advise - relevant principles.

51. The basic principle is that a solicitor is not obliged to travel outside his or her instructions and make investigations which are not expressly or impliedly requested by the client: Pickersgill v Riley [2004] UKPC 14.
52. On the other hand, there is generally a duty to point out any hazards of the kind which should be obvious to the solicitor but which the client, as a layman, may not appreciate: Boyce v Rendells (1983) EG 268 at 272, col.2. A solicitor carrying out a transaction for an inexperienced client is not justified in expressing no opinion when it is plain that the client is rushing into an unwise, not to say disastrous, adventure: Neushul v Mellish & Karkavy (1967) 203 EG 27, per Danckwerts LJ.
53. Ms Bruce said that the risks identified below were precisely the types of hazards about which the Respondents ought to have advised their clients, applying these basic principles.
54. As part of his or her ordinary duty to explain legal documents, a solicitor should in particular explain any unusual provisions: Sonardyne Ltd v Firth & Co [1997] EGCS 84 QBD. The instant cases were clearly very different from ordinary property transactions. The clients' attention ought to have been drawn to these differences.
55. The experience of the client is relevant: an inexperienced client will need and will be entitled to expect the solicitor to take a much broader view of the scope of his or her retainer and duties than will be the case with an experienced client - Carradine Properties Ltd v DJ Freeman & Co [1999] Lloyd's Rep PN 48 per Donaldson LJ at [487]. It was the Applicant's case that the same approach is required where a client is, or may be, vulnerable.
56. It follows from the above principles that where a transaction contains unusual features which the solicitor does not fully understand, or where the rationale and basis for the proposed transaction is unclear, the solicitor must make all necessary enquiries to appraise themselves of the nature of the transaction and the unusual or hazardous features of the transaction, in order to give the advice that he or she is required to give to the client.

Respondents' failure to advise and obtain information and instructions.

57. As set out in detail in the examples of client files above, Ms Bruce said that the Firm did not properly advise its clients or make necessary enquiries which it, and the Respondents, were obliged to make to satisfy themselves as to the advice that needed to be given and the nature of the transactions in which they were acting. In particular,

the Respondents failed to make necessary enquiries and give necessary advice in the following specific ways:

- The Respondents did not make enquiries with their clients to confirm what the clients had been advised by SP in respect of the documentation provided by SP or give any advice in relation to that documentation.
- The Respondents did not make enquiries with their clients, promptly or at all, to ascertain whether they were aware that they could instruct solicitors of their choice and failed to give any advice to that effect.
- The Respondents did not make any enquiries, or alternatively any sufficient enquiries, about the sums invoiced by the Companies, the basis of those invoices, or whether their clients were properly liable to pay those invoices.
- The Respondents did not make such enquiries either of their clients or of the Companies, notwithstanding that:
 - The clients were all being asked to pay very substantial sums to the Companies.
 - The clients had all apparently incurred liabilities to the same companies.
 - Much more detailed enquiries were made of mortgage lenders with charges over the properties, who were asked to provide up to date redemption statements.
 - Other debts, such as one client's debt to his ex-wife that was to be met by selling the property, were ascertained carefully through correspondence with interested parties.
 - Over the time that the Firm was acting in matters referred by SP, both clients and third parties (including the police) had expressed concern to the Firm over payments being made to third parties, as set out in the example cases referred to above.
 - The transactions plainly did not appear to be in their clients' best interests, as all or substantial proportions of the proceeds of sale of their clients' homes were being paid away to third parties, leaving the clients with much less, or nothing at all, from the proceeds of sale.
 - The transactions bore many other suspicious features as set out above.
 - An explanation of the invoices was, in the first instance, sought from Person RS of SP, rather than the clients.

58. Having failed to make enquiries to ascertain either the rationale of the transaction or the nature of the payments being made to the Companies, the Respondents failed to advise their clients that the payments being made to the Companies were highly unusual, excessive and without any apparent and credible explanation. The Firm's

files contain no evidence of proper advice being given to clients in respect of the amounts being paid to the Companies, or of the clients' informed consent being obtained. It is to be inferred that no such consent was obtained.

59. The Respondents failed to advise their clients, or alternatively failed to give proper and sufficient advice, as to the risks faced by their clients in entering into a contractual obligation to give vacant possession of their homes on completion, when it was intended that the client would remain living in the property.
60. The Respondents failed to advise their clients, or alternatively failed to give proper and sufficient advice, as to the payments being made out of the proceeds of sale and the fact that the clients would receive either none of the proceeds of sale or a substantially reduced amount.
61. Accordingly, the Respondents failed to obtain any sufficient consent, or alternatively any properly informed consent, from their clients in respect of exchanging contracts for the sale of the properties and completing on the transactions.
62. The Respondents asserted that each client confirmed the instruction to make payments during telephone conversations, as recorded in attendance notes. The clients represented by VL deny that any such instruction was ever given.
63. As to this, none of the attendance notes records any advice about the payment to the Companies adequate to the circumstances of the case. In particular, no explanation or advice is recorded concerning the nature of the payment being made, the basis for it, or the substantial reduction in the amount of the proceeds of sale that the client would receive.
64. The Firm's files show that some clients were originally confused about or unaware of the invoices, but apparently recalled during brief discussions with the Second Respondent or Person RS that they were happy for the sums to be paid.

The First and Second Respondents' position with respect to the Allegations.

Overview

65. The First and Second Respondent did not identify any suspicious features, at the time each transaction relied upon by the Applicant took place.
66. Mr Goodwin submitted that upon reflection, informed with the benefit of hindsight, the First Respondent and Second Respondent accepted that they ought to have identified certain suspicious features of the transactions and that they would make admissions to certain breaches of the Principles set out in the Allegations although lack of integrity (*Principle 2 of the Principles*), dishonesty and recklessness where these were pleaded were denied.
67. It was the First and Second Respondents' case that they only became aware that the purchasers may have been connected to SP and associated companies, following the Investigation by the police and the Applicant and at the time of the transactions the

First and Second Respondents did not identify any connection between the purchasers and anyone connected to SP.

68. Whilst the First and Second Respondents both accepted with the benefit of hindsight, that greater enquiry and scrutiny could have been exercised on their part the sellers of the properties had made contact direct with SP as a consequence of advertising by SP in newspapers to purchase their properties. The sellers had then been referred to the First and Second Respondent by SP to deal with the conveyancing.
69. All payments were made with the consent and authority of the individual clients and contrary to the assertions made by the Applicant, no documents, other than a copy of the client care letter was provided to SP. The client care letter template was provided by the First Respondent to SP in an attempt to facilitate the progression of the transaction(s), although shortly afterwards the First and Second Respondents asked SP to stop using the Firm's client care letter and upon receipt of the clients' details from SP, the Firm wrote to client(s) direct with a new client care letter.
70. With respect to each of the exemplified the transactions the First and Second Respondent set out their position below.
71. Client PJE
 - 71.1 The Second Respondent, who had day to day conduct of the transaction, recalled frequent contact with PJE. He was happy with the service provided by the firm and at no time indicated to either Respondent that he was making decisions under duress and/or without his own free will.
 - 71.2 The Respondents denied the assertion put to them by Ms Bruce in cross-examination that the assurances they gave this client and the others for whom they acted in like transactions were false assurances. It was put to each Respondent by Ms Bruce and denied by them that if they had not understood what the payments were for then they could not have given the proper advice and assurance which their clients had expected to receive from them as their solicitors.
 - 71.3 Following completion, the Second Respondent recalled PJE calling the office to say how happy he had been with the service and that he would consider using the firm in relation to his matrimonial matter.
 - 71.4 The Respondents did not consider that the client had been vulnerable as the Applicant had submitted he had been. Whilst, he had been diagnosed with bladder cancer in 2012 and suffered from high blood pressure, angina and psoriasis his health conditions did not, in and of itself, make him a 'vulnerable' client.
 - 71.5 By letter dated 19 April 2013 the First Respondent wrote to PJE thanking him for his instruction and acknowledging receipt of the documents. The same day, the Firm wrote to the purchasers' solicitors confirming they were instructed in connection with the sale of the property at the agreed price of £165,000.00.

- 71.6 On 23 April 2013 the First Respondent received a telephone call from PJE confirming he was happy to proceed with the sale. The note read, *"He explained he needed a quick sale because his wife had a charging order on the property and he had a hearing on the 8/05/13 so wanted to comp before then"*.
- 71.7 By letter dated 25 May 2013 the Second Respondent wrote to PJE and made reference to a telephone conversation of *"even date"*. Whilst the Second Respondent could not recall, given the lapse of approximately 7 years since the transaction, whether she went through the invoices provided by the companies with PJE, she did recall that he informed her that he was fully aware of the sums due and by a letter dated 12 June 2013, the Firm wrote to PJE and made reference to a telephone conversation held on that date, attached the completion statement and said:

"The RIGHT column shows money that will be coming in on completion. The LEFT column shows money that will be paid out before you receive the sale proceeds. I understand that you are aware that the total sum of £96,000.00 will be paid to the 2 loan companies as re-payment, before you will receive the sale proceeds:

- 1) £51,000.00 DD,*
- 2) £45,000.00 IIS.*

Furthermore, I understand you are aware of the charged(sic) registered in favour of your ex-wife amounting to £64,018.87 on the 14 June 2013. Please see enclosed herewith correspondence for your ex- wife's solicitors showing the breakdown of the redemption amount. Please look through all the figures on the completion statement. It is vital you agree and are happy with the content. If this is the case, please sign and return a copy of this letter to me. Completion on this matter will only take place once I have received you(sic) signed confirmation. Once you are in receipt of this letter, please contact me on the above telephone number to allow me to go through all the figures with you".

- 71.8 The completion statement particularised the payments to be made to include the Firm's costs of £600.00, the payment to IIS of £45,000.00 and DD of £51,000.00, together with the charging order in favour of BE in the sum of £64,018.87.
- 71.9 There was also a typed telephone attendance note dated 13 June 2013 of a call between the second Respondent to PJE which read:

"Had received all the paperwork I had sent and had a look through the same. I went through each entry on the Completion Statement in detail. He stated that he was happy with the same. There was one amendment made to the completion statement. When asked how he would like the proceeds paid to him, he explained that the(sic) would like us to transfer it into his account on the same day. I explained that this has a charge of £30.00 he was happy to have this deducted from the proceeds".

- 71.10 As far as the First and Second Respondent were aware, PJE was selling the property with vacant possession, as reflected in the terms of the Contract and which was consistent with the information provided by PJE to the Firm.
- 71.11 It was said by the First and Second Respondent that it was inconceivable that PJE would have confirmed his knowledge and agreement to the payments to be made to the Companies if, in fact, he was unaware of the same.
- 71.12 The letter from the Citizens Advice Bureau dated 12 January 2016 was received approximately 2 ½ years after the date of completion and the Respondents had heard nothing from PJE in the period between the date of completion and date of the letter.
- 71.13 The First and Second Respondents were unable to comment upon PJE's recollection at the time he provided instructions to the Citizens Advice in January 2016 and/or why he said he did not recognise the companies, IIS and DD, or why such payments were made from the proceeds of sale. However, at the time of the transactions, PJE informed the First and Second Respondents that he was aware of, and consented, to the payments to the Companies.
- 71.14 The Citizens Advice letter referred in the second paragraph to, *"My client explained that when he questioned this at the time, he was told it was related to insurance but could not tell me any more than that"*. The First and Second Respondents had no recollection of any such discussion.
- 71.15 The Citizens Advice letter made no reference to who PJE suggested he spoke to, but it was not the First or Second Respondent. In any event, the Second Respondent telephoned Citizens Advice on 15 January 2016, when it was confirmed that the Firm had no connection to DD and IIS and that the payments were made on the authority of PJE.
- 71.16 The Second Respondent spoke to RS on 18 January 2016 as she had indicated to Citizens Advice she would do. The First and Second Respondent's did not consider, at the time, that Mr PJE was vulnerable and formed the view that he was aware of, and provided instructions and consent, for the payments to be made to the third-party companies.

72. *Clients PHA and REJA*

- 72.1 The client care letter and associated documentation provided by SP were disregarded and a new client care letter was drafted by the Second Respondent, having spoken to the client on 4 May 2016.
- 72.2 The attendance note dated 4 May 2016 confirmed that the Second Respondent telephoned REJA and said, amongst other things, *"I explained to REJA that I will be forwarding over a number of documents to her, I informed REJA that she should contact me once she is in receipt of same. I did explain the absolute importance of her and her husband understanding these documents before they are signed and her calling me. REJA stated that is absolutely fine and that she would like to go through things with me"*.

- 72.3 The Second Respondent said she applied no pressure to PHA and REJA or any other client, to instruct the firm. The Second Respondent formed the impression that PHA and REJA were expecting contact from the Firm and which informed her view that the client was acting on their own free will.
- 72.4 The client care letter sent by the firm to the client included a 'Cancellation Form', providing the client, should they so wish, with the ability to cancel instructions at any time. The Second Respondent did not form the impression that PHA and REJA were vulnerable. PHA and REJA had been referred to SP by their friends, BJW and MHW, and who had told them that SP were offering a service where properties could be sold on lease back terms. BJW and MHW were one of the other transactions relied upon by the Applicant and for whom the firm acted.
- 72.5 It was Mr Goodwin's submission on the Respondents' behalf that it could be reasonably inferred that the basis of BJW and MHW referring PHA and REJA to SP, was that they were satisfied with the arrangement between them and SP.
- 72.6 By a letter dated 9 May 2016, the Second Respondent wrote to the client, referring to a telephone conversation, and attaching a copy of the Contract of Sale and transfer documents.
- 72.7 The letter dated 9 May 2016 provided express comment and advice, upon the Contract of Sale and Form TR1. On 29 April 2016, the Second Respondent prepared an attendance note which read, *"Because they are distant clients I have been provided with certified copies of identification. The certified copies was (sic) provided by a firm called B & Co Solicitors. I checked on the SRA website their details was (sic) confirmed and I also checked their website which looks legitimate. I am satisfied that this is a legitimate law firm"*.
- 72.8 The Respondents contended that this was supportive of the approach of the Second Respondent and the Firm in relation to their professional obligations and responsibilities. On 13 May 2016 REJA telephoned the office and spoke to the Second Respondent, who confirmed safe receipt of the documentation provided by the client and confirmed that they were in receipt of the mortgage redemption statement.
- 72.9 In the letter dated 6 August 2018 from VL to the Firm, it was said on behalf of PHA and REJA, amongst other things, that *"The only correspondence our client received from your firm were two letters dated 17 June 2016 and one dated 6 July 2016"*.
- 72.10 However, in the Report prepared for, and on behalf, of the SRA Compensation Fund dated 27 August 2020 there is a suggestion that PHA and REJA asserted that they did not have any contact with the firm until they received the letter of 6 June 2016 and Mr Goodwin pointed out that appeared to be inconsistent with the letter sent on their behalf from VL dated 6 August 2018 in which they say that they only received letters dated 17 June 2016 and 6 July 2016.
- 72.11 Further, within the letter from VL, it was said on their behalf that they were visited by a representative of SP in March or April 2016, and *"a few weeks later a representative of your firm, calling herself Teena telephoned REJA and stated that your firm would be acting in the transaction"*. In the same letter it was said, *"In or*

about late May or early June 2016 Teena telephoned again and informed REJA that the property had been sold for £150,000.00...

- 72.12 There was no suggestion within the letter that REJA and/or her husband queried the amount and they accepted that they were aware of the sale price and, the amount of the mortgage, and which would have informed their knowledge.
- 72.13 Within the Report prepared by the SRA dated 27 August 2020, it was said that, *“The sale completed on 26 May 2016 and the Applicant received a phone call from TS at SP to tell them that the property had been sold”*. Mr Goodwin submitted that there was an inconsistency between that which PHA and REJA said to the Applicant as set out in the Compensation Fund report dated 27 August 2020 and the letter from VL dated 6 August 2018.
- 72.14 In their response to the Applicant dated 28 September 2020 following the Compensation Fund Report dated 27 August 2020 the First and Second Respondents accepted that they did not investigate the invoices from IIS and FHA, because the money to be paid was not registered against the property and, more particularly, the clients confirmed that they were aware of the payments to be made to those companies, and they had provided their authority and consent for the payments to be made.
- 72.15 The Second Respondent telephoned PHA on 25 May 2016 and went through the completion statement with him. The telephone attendance note states, *“I contacted PHA and went through the completion statement details with him and PHA said that was absolutely fine and he provided confirmation for me to proceed”*.
- 72.16 The following day, 26 May 2016, the Second Respondent telephoned PHA. The attendance note recorded *“I contacted PHA and informed him that we have completed and all the monies have been paid. With regards to the cheque we will send the same in the post to him tomorrow and PHA stated that he is happy with that. REJA then came on to the phone and wanted to thanked (sic) for making the process very easy for her and that she appreciated the effort”*.
- 72.17 The First and Second Respondent admitted that they ought to have gone through the invoices with the clients in more detail. However, the Second Respondent had a clear recollection that having gone through the completion statement with the clients, they provided their unequivocal authority and consent to make the payments, which could only have been provided on the basis that PHA and REJA were aware of, and authorised, the payments to be made.
- 72.18 The Second Respondent proceeded on the basis that the clients were selling the property with vacant possession, based upon their instructions and as reflected in the Contracts of Sale.
- 72.19 Whilst the Second Respondent was confident that she spoke to the clients regarding the Contract of Sale, to ensure that they fully understood the documentation and would have enquired regarding vacant possession, there was, regrettably, no attendance note confirming this conversation. However, the letter dated 9 May 2016, did state: *“It is vital that you read and have a full understanding of these documents*

before signing them. Therefore, once you are in receipt of this letter, I would be most grateful if you could contact me so that I can go through the documents with you”.

73. Clients BJW and MHW

- 73.1 BJW and MHW had referred PHA and REJA to SP. The Second Respondent recalled that whilst documentation had been provided by SP, the firm drafted new documents which were sent to the client and returned on 13 April 2015.
- 73.2 Prior to the documentation being sent to the clients, the Second Respondent made a telephone call on 10 April 2015 to introduce herself. The Second Respondent recalled that the client gave no reason for her to form the view that they were in any way vulnerable as alleged by the Applicant.
- 73.3 On 20 April 2015, the Second Respondent spoke to BJW and MHW. The attendance note states, *“Spoke to BJW on the phone and he confirmed spoke to RS in regards the fees and everything was fine if we continue as how we want to. Also informed that there was a change of price to £160,000.00 and be confirmed. Sent the TR1 form and the contract for them to sign again and told them to ring once they get the forms so that can explain them to the clients”*. The attendance note records a subsequent call at 3.25pm on 20 April 2015 to clarify the figure on the mortgage.
- 73.4 By letter dated 20 April 2015, the Second Respondent wrote to BJW and MHW, referring to the telephone conversation and attaching the Contract of Sale and Form TR1.
- 73.5 On 29 April 2015, the Second Respondent spoke to the client on the telephone, with a subsequent telephone conversation taking place on 1 May 2015, the attendance not of which reads, *“Call made to BJW on I explained to BJW that I sent an email to him for the completion statement. He said he hasn’t got access to it at the minute but he is happy to go through all of it with him. I went through all of the entries in and out and explained each one. He said he was completely happy with that and to proceed on this basis. He also instructed that in regards the money that is going to him is to be given in cheque”*.
- 73.6 The First and Second Respondent conceded that they did not make an enquiry regarding the invoices from the companies - this was because the monies to be paid were not registered against the property. The First and Second Respondents accepted that they ought to have looked at the invoices in greater detail, and they should not have relied upon the clients’ confirmation that they were aware of the payments to be made to the Companies. However, payments were made with the clients’ knowledge, authority and consent.
- 73.7 The same position was adopted in relation to the vacant possession as had been set out in relation to REJA. Contrary to the suggestion from VL, that the Second Respondent only spoke to the client once, the Second Respondent recalled that she had had a number of telephone calls with the client in addition to sending the letters and emails.

74. Clients BFP and SAP

- 74.1 The Second Respondent confirmed that whilst documentation was received from SP the Firm sent a new client care letter, terms of business, together with documents relating to the transaction, to the clients. The Second Respondent recalled being in contact with the clients on a number of occasions and that they did return the signed documentation.
- 74.2 On 2 August 2016, the Second Respondent spoke to BFP on the telephone who confirmed receipt of the documentation forwarded by the Firm. The note records, *“I went through each document with her. However, she was quite reluctant because be (sic) said she understood everything. I told her the importance of fully understanding the document. I went thought (sic) the client care letter with her, the contract and TRI in detail. I advised that she... should only sign the documents if they fully understood the content. I requested the documents be forwarded to us via recorded delivery. I advised her of the next step. Once the buyers were happy to proceed we can put forward exchange a completion date. Before this I will draft a completion statement stating all money coming in and going out. She must be happy with the sale before competing”*.
- 74.3 On 18 August 2016, BFP telephoned the Firm and spoke to the Second Respondent. The Second Respondent requested an email address to which she could forward the completion statement and said, *“I advised that I cannot complete until I go through the same with them and they are happy with the figure. The email address provided was [redacted]”*.
- 74.4 On 19 August 2016, the Second Respondent telephoned BFP and explained that she had drafted the completion statement and would send it over to them. The Second Respondent requested that BFP and SAP give her a call upon receipt, and the clients provided their bank details.
- 74.5 Later the same morning, 19 August 2016, the second Respondent received a call from BFP. The note states, *“She stated that both had looked at the completion statement, understood the content and were happy to proceed. I went through the entries on the completion statement and BFP confirmed that she was happy to proceed to exchange and completion. I stated that I will call her again once completion had taken place and I have transferred the sale proceeds to her”*.
- 74.6 The First and Second Respondents did not investigate the invoices from the third-party companies because the money to be paid was not registered against the property and the client had provided unequivocal instructions that they were aware of, and authorised, the payments to the companies. The payments were made on the authority and consent of the client. The Second Respondent recalled that BFP was keen to complete as quickly as possible and BFP had indicated that both she and SAP had looked at the completion statement, understood the contents and were happy to proceed. During the conversation on 19 August 2016, the Second Respondent went through the entries on the completion statement, in any event, to ensure that the client was happy, and fully understood the position.

75. Client CRH

- 75.1 The Second Respondent recalled the Firm re-issued the client care letter to the client. On 23 May 2016, CRH contacted the firm and spoke to the Second Respondent. The telephone attendance note prepared by the Second Respondent states, *“CRH contacted the office and stated she is in receipt of our documents that was forwarded to her. I informed CRH that I would like to go through the same with her. This took a considerable amount of time and she did appear confused at times. I spent a lot of time ensuring that CRH understood and she mentioned that she will get the documents signed and returned to me. CRH further mentioned that she is going to get her identification done again and certified by a lawyer. I mentioned to CRH that once she has done all that can she return the documents by recorded delivery and CRH said that she will get that done. I did also stated (sic) that if she has any further concerns to contact me”*.
- 75.2. On 25 May 2016, the Second Respondent telephoned CRH. The telephone attendance note prepared by the Second Respondent states, *“Contacted CRH on the call was unanswered, I left a message on voice mail explaining that I am in receipt of all the documents she has signed and they were correct. I stated that I understand that you want to complete on Friday, however, before completion I will need to go through the papers with her first to make sure she is happy with everything particularly the completion statement. I explained that I would be grateful if she calls me tomorrow as I need time to arrange the completion statements.”*
- 75.3 On 27 May 2016, the Second Respondent telephoned CRH. The attendance note prepared by the Second Respondent states, *“Contacted CRH on., I explained that we are looking to complete today, however, I need to make sure that she is happy with everything and also the payments that will be going out with regards to this. I went through each item separately on the completion statement with her. CRH seemed a little confused at first and then I explained about RS’ two companies and then I mentioned that I am not happy to complete until she is happy with these and understand what they are for. CRH took a second to think about, then CRH realises that she is aware of what these are for and understands what these are about. CRH has asked me to continue with completion”*.
- 75.4 The Respondents denied in cross-examination that they had ignored this and other clients’ obvious vulnerabilities and they denied that the assurances they had given to this and other clients had been devoid of substance on the basis that they had not made any sufficient enquiries regarding the ‘loan’ repayments.
- 75.5 It was submitted by Mr Goodwin that the approach of the Second Respondent indicating that she would not be happy to complete on behalf of CRH until she was satisfied that CRH was content and understood the position, was supportive of the open, transparent and honest approach of the Second Respondent, and contrary to the allegation that the First and Second Respondent had known that this, and/or, any other transactions involving SP, was fraudulent.

- 75.6 The Second Respondent recalled that CRH wanted to complete the transaction quickly because she was financing a medical procedure for her daughter. The Second Respondent recalled discussing that aspect with CRH, but regrettably, not making an attendance note.
- 75.7 On 14 September 2016 there was a telephone call from JB, an Anti-Money Laundering Officer from Nottingham Police. The First Respondent said that her telephone attendance note records the First Respondent indicating that she could not discuss the matter with him before speaking to the Regulator and CRH.
- 75.8 The telephone attendance note records that the first Respondent contacted the SRA to enquire as to the position, in relation to disclosing information to the police and it states, *“Made call to the SRA. I asked them to confirm what my position would be regarding disclosing information to the police. They said that we needed to get an order or consent from CRH so I said that I would go back to the police”*.
- 75.9 It was submitted by Mr Goodwin that the action on the part of the First Respondent in contacting the Applicant for advice was supportive of the actions of a solicitor acting openly, transparently, and honestly, and in accordance with her professional obligations.
- 75.10 The contact with the SRA was contrary to, and inconsistent with, a solicitor, as alleged by the Applicant, knowingly, participating in a fraudulent transaction. The First (and Second) Respondent believed the transaction to be genuine and legitimate. It was submitted that the First Respondent took the proper course of action, in contacting the Applicant, to confirm her professional responsibilities and obligations to her client, CRH, and this was supportive of the actions of an honest solicitor.
- 75.11 The telephone attendance note dated 14 September 2016 confirmed that the First Respondent telephoned the police back, and left a message for JB, to return her call. He did call back. The First Respondent informed him that she needed consent from the client. The telephone attendance note dated 14 September 2016 records the First Respondent making a telephone call to CRH and leaving a message for her to call back.
- 75.12 The Second Respondent proceeded on CRH’s instructions, authority and consent to make the payments, having explained that she would not complete until Mrs H was entirely happy with the position. To the best of her recollection, the Second Respondent recalled that she perceived Mrs H to be a client who understood the position, albeit she had required a little more assistance in ensuring that she understood that which was involved and the detail.
- 75.13 Following the contact from the police, the Second Respondent prepared an attendance note dated 21 September 2016, recording her recollection of the matter. The note reads, *“I confirm that during my acting for the above- named client, I was advised by the client that she wanted us to complete on this matter as soon as possible. She advised me that her daughter was going through [redacted] and she wanted to financially assist her. I further confirm, whilst dealing with CRH I believed she did understand what I was saying, there were occasions where I needed to explain things in more depth, but she did confirm when she did understand. I confirm that from the*

outset, I advised CRH to please let me know when she did not understand something. Furthermore, I stated very clearly that, until she is happy to say she understands everything, I and not proceed with the matter”.

- 75.14 The First and Second Respondents proceeded on the basis of what they genuinely believed to be a legitimate transaction and upon the instructions, authority and consent of CRH.

76. Clients RP and SP

- 76.1 Whilst the Firm received documentation from SP relating to the client, the Firm re-issued the client care letter, together with documentation relevant to the transaction to the client. Contained within the client matter file is an undated telephone attendance note which records *“Went through completion stat”*.
- 76.2 On 29 October 2015, the Second Respondent telephoned RP, there was no response. A message was left for a return call. Shortly, thereafter, RP telephoned and spoke to the Second Respondent. The note stated, *“I introduced myself and stated who I am and explained that I am a conveyancer and what my job is and his instructions to me are. However, I explained that although some documents have been signed by him (client care letter) I stated that I will will(sic) sending him another client care letter which is more detailed in terms of the service I will be providing him. I went through the conveyancing and what a conveyance is. I informed Mr P that I will contact him at the start of each stage to explain the process to make sure that he fully understands. I further stated that if at any point he or his wife wishes to discuss anything with me, please do not hesitate to contact me at any time”*.
- 76.3 On 3 November 2015, the Second Respondent telephoned the client and spoke to RP and recorded that RP understood the documents sent to him and he was in the process of returning same. The Second Respondent recalled that she went through the completion statement with the client, together with the names of the companies and the amounts to be paid to them out of the sale proceeds. The Second Respondent believed that RP and SP were aware of the Companies and the amounts to be paid.
- 76.4 The Second Respondent recalled that the client confirmed their authority and consent to proceed, and the payments were made in accordance with the client’s instructions and consent.
- 76.5 The Second Respondent regretted that the attendance note confirming that she went through the completion statement is not dated which, to the best of her recollection and belief, after a lapse of over 5 years, was because she was preparing for completion which took place on 1 December 2015. However, she had no doubt that the note properly records that which occurred i.e. that she went through the completion statement, with the client, prior to completion.
- 76.6 The Second Respondent could not explain the discrepancy in one of the Companies being paid less than the amount on the invoice. Subsequent to completion of the transaction on 1 December 2015, the Second Respondent contacted RP, and having explained the matters referred to within the attendance note, RP thanked the Second Respondent for the call and information. The client said nothing about not having received the full sale proceeds.

76.7 In so far as the First and Second Respondents were concerned, the property was to be sold with vacant possession, consistent with the terms of the contract. The Second Respondent was unaware that the client intended to remain in the property after completion. The First and Second Respondent were not party to, or aware of, any arrangement that was made between these clients and SP.

76.8 The First and Second Respondents only became aware, after the Applicant's investigation had commenced, that the client expected to remain in the property after completion. No mention had been made by the client of his intention to remain, at all, or at any stage.

77. Client MR

77.1 Notwithstanding the documentation provided by SP to MR, the Second Respondent recalled that the Firm re-issued the client care letter. On 18 January 2016, the Second Respondent telephoned MR on his landline, but the call was unanswered. The Second Respondent tried his mobile number, which was answered by MR. The telephone attendance note dated 18 January 2016 states, amongst other things:

"I further explained that I will be sending out some documents to them. I requested that once they are in receipt of the same they should contact me. I explained that the first set of documents will be the client care letter and that concerns his instructions to me including the breakdown of the costs and the cancellation form for a long- distance client. The further two very important documents are the Contract of Sale and the Transfer. I mentioned that it is imperative that you understand the contents of these two documents. The reason why I have asked him to contact me when he is in receipt of the same to enable me to go through the same. MR said that was fine I will prepare a completion statement for him which will show incoming and outgoing of funds. MR said that was great and thanked me for the phone call. I reminded MR of my name and reminded him that my number is on his phone".

77.2 As mentioned above in relation to the other transactions, because the monies to be paid to the third- party companies were not registered against the property, the Second Respondent did not consider it necessary to seek a redemption figure.

77.3 On 21 January 2016, MR telephoned the office and spoke to the Second Respondent. He confirmed he was in receipt of all documentation. The Second Respondent went through the client care letter and explained how the house was to be sold, the breakdown of the firm's costs, the current status of the matter, and what reports the Firm was waiting for. The note records:

"MR said the (sic) was happy with what I have explained and signed the same including the terms of business. We went through the letter we provided for the TRI and Contract of Sale I informed MR that I am going to go through each entry on the Contract of Sale, I explained the standard clauses and special condition We went through the TRI again and explained all entries. I further explained the importance of these documents and that they need to be signed in the presence of an independent witness he knows well".

- 77.4 On 26 January 2016, the Second Respondent telephoned MR on his mobile, to which there was no response. Shortly after, MR returned the call. The telephone attendance note states:

"I explained that I have received all his documents, which all signed correct and everything is fine. I have received a mortgage figure and I just wanted to go through this with him and if it sounds correct. I explained that I was given a figure for 28 January 2016 which is £63,858.00. MR stated that the figure appears to be correct. I further explained that RS has requested that I send this figure over to him, I asked MR if the (sic) had any objections to the same. MR said that was fine and gave his permission for RS to have the information."

- 77.5 The Second Respondent regretted that there was no attendance note on the client matter file, but she was sure that she would have gone through the completion statement with the client, to include the companies named and the payments to be made to them as was her invariable and unusual practice. The Second Respondent was confident that MR was aware of the companies and the amounts that would be paid and she would not have proceeded without MR's instructions, authority and consent to complete the transaction and make the payments to the third party company.
- 77.6 The Second Respondent made a note of a telephone call on 8 April 2016, being the date of completion, when the Second Respondent noted MR's bank details.
- 77.7 It was the Second Respondent's practice to go through the completion statement with the client, and only once the client was entirely happy that the details were correct would she then request the details of the bank account to which they would like any proceeds of sale to be transferred.
- 77.8 The Second Respondent was confident, based upon her normal practice, notwithstanding the lapse of time of nearly 5 years, that she would have gone through the completion statement with the client, received his consent and authorisation to complete the transaction, then obtained his bank details, followed by exchange and completion.
- 77.9 The Second Respondent would not have made payment to the third- party companies without the MR's unequivocal instruction, and consent.
- 77.10 The Second Respondent's request of RS was because in nearly all of the cases referred to the firm by SP, there were payments to be made to a third-party company, or companies, and the Second Respondent assumed that there would be payments to be made in this case.
- 77.11 The Second Respondent was simply seeking to clarify the position to facilitate the drafting of the completion statement for the benefit of MR. There was nothing sinister in the request, as inferred to be by the Applicant.

- 77.12 Mr Goodwin submitted that if the First and Second Respondents had known that the transactions were fraudulent, it would have been inconceivable that the Second Respondent would have made a note of her request of RS to clarify details of any payments that may have been due to third party companies.
- 77.13 The First and Second Respondents were unaware that MR intended to remain at the property subsequent to completion. The Contract of Sale was drafted on the basis there was to be vacant possession. The First and Second Respondents were not party to, or aware of, any arrangements made by MR and SP and they only found out after the Applicant's investigation commenced.
- 77.14 At no time, did MR inform the First and/or Second Respondent that he intended to stay in the property and contrary to any suggestion on the part of MR that he had no contact with the Firm and/or the Second Respondent, there in fact were a number of conversations between MR and the Second Respondent and, in particular, that the Second Respondent provided him with advice in relation to the transaction, and that the notes contain information that could only have been provided by MR himself.

78. Client KH

- 78.1 The Second Respondent recalls that whilst documentation was provided by SP, the firm re-issued the client care letter and documents relevant to the transaction, to KH. The client care letter dated 30 July 2016 attached the Firm's terms of business, Cancellation Form, TR1 and Contract of sale. KH returned the letter signed and dated 3 August 2016.
- 78.2 By a letter dated 21 October 2016, the Second Respondent wrote to KH following a telephone conversion that day, when KH indicated he could not recall receiving letters from the Firm. The letter states:

"I advised that I had sent a number of documents to you in July 2016, all of which we had gone through together on the telephone and once you were happy and understood the content, you signed and returned to me. Further to your comment, I explained the importance of understanding all documents you sign and at this point I am not fully confident you, at the present moment, understand what you have signed as you do not recall signed(sic) them".

- 78.3 The Second Respondent went on to make reference to the signed documentation previously provided by KH and the letter stated: *"I have also enclosed herewith, the one of the Same Person Declaration for your signature. As advised, your signature must be witnessed in front of a solicitor. Once this has been signed, please return the same back to me"*.
- 78.4 The letter dated 21 October 2016 demonstrated that the Second Respondent was concerned as to KH's understanding of the transaction, and the steps she took to ensure that he was fully informed.

- 78.5 Mr Goodwin submitted that this was the evidence of a solicitor acting openly, honestly and in accordance with her professional obligations, and wholly inconsistent with the Applicant's case that the Second Respondent knew that the transaction was fraudulent.
- 78.6 KH contacted the firm on 24 October 2016. A copy of the attendance note of the call confirmed that the Second Respondent indicated she would like to go through the documentation with KH to ensure that he understood the content. The note records:

"We first went through the client care letter which KH confirmed that he was happy with, which he signed along with the terms of business. Then we went through each entry of the Contract of Sale, again KH confirmed that he was happy with the same and the reason he had previously signed. We did the same with the TR1, KH confirmed that he understood the same. KH mentioned that he will be attending another firm of solicitors regarding the one and same person declaration, which he must sign in their presence and then he will return the same to me KH mentioned that he would like to complete next week. I then explained that this will depend on the information coming back to me

KH could not understand why so much information is required to obtain the one and same person declaration. I explained that we have strict regulations regarding identity because he is someone I will not be seeing face to face I must be extra cautious. I discussed this with KH and explained the importance of money laundering and Mr H agreed and said that it was fine. KH stated that he will get this information sent to me".

- 78.7 On 31 October 2016, the Second Respondent contacted RS of SP, and indicated that having spoken to KH he was not happy. On the same day and within minutes of speaking to RS, the Second Respondent telephoned KH and explained that she had spoken to RS and that he would be in contact with him directly. The note states:

"KH was stating that he was very fed up with the length of time this has taken. He then stated that he could not understand why he was only receiving £91,000.00 when the house was being sold for £170,000.00. I asked KH, why he thought he was only getting £91,000.00. He stated that he knew he has fees to pay such as my professional fees, the survey costs, the buyers costs, but he could not understand how this could all amount to £79,000.00. I explained to KH that as he has disclosed this to me, I will not be happy to complete. I stated very clearly that, unless he has a full and complete understanding the completion funds, the amount of money going out and his sale proceeds, I cannot act. I stated that it is imperative he speak with RS. I asked if he remembers signing any documents with RS related to any fees that will go to him, or anywhere which would amount to £79,000.00. He answered no. I asked if I had his permission to speak to RS about the figures. He said yes. I will speak to RS tomorrow".

- 78.8 Mr Goodwin submitted that this was entirely consistent with the Second Respondent acting openly, honestly and in accordance with her professional obligations, and contrary to the case advanced by the Applicant, that she knew the transaction was fraudulent.
- 78.9 On 1 November 2016, the Second Respondent telephoned RS and informed him regarding KH's concern, as to why he was only receiving £91,000.00 out of £170,000.00 and that he did not recall signing any documents. The note records that RS confirmed KH had signed the agreements at the commencement of the matter and that he would speak to KH.
- 78.10 On 1 November 2016, the Second Respondent telephoned KH and informed him of the conversation she had had with RS. The note records *"However, in any case I stated to KH that I will not be completing on the basis that he has no idea where the £79,000.00 is going"*.
- 78.11 Later that day, 1 November 2016, the Second respondent telephoned KH. The telephone attendance note records, amongst other things:

"He that (sic) stated that he spoke to RS and has found the agreement between himself, A and IIS, I asked if he remembered signing the document to which he replies (sic), he must have signed it because it has his signature on it. He asked me a question about something in the agreement stating the agent's fees are £79,000.00. I explained that these are fees which would be paid on completion to A and IIS. He then stated that this was fine. I then said - "The fee for the house to be sold of £79,000.00 and this fee has nothing to do with me. The fee will come out of his sale proceeds along with my fees and any disbursements.

He said he fully understands and wants me to proceed. He desperately wants me to complete on this matter on Friday. I further added the issue related to the house being sold with vacant possession. He said this is fine and he and the buyer have come to an agreement whereby he will be renting the property from the buyer.

This, has all be(sic) arranged between the parties. I simply wished to ensure be understood the meaning of vacant possession as stated on the contract of sale. I asked him one final time if he feels he has a full understanding of what will happen on completion, he said yes, I then advised that I will draft a completion statement shortly which will show all monies coming in and out on the day of completion, and it is imperative he understands the content before I can proceed to. He said that was fine".

- 78.12 Mr Goodwin submitted that this confirmed that the Second Respondent was acting in an open, and honest way, consistent with her professional obligations, and in the best interests of KH and that the Second Respondent's approach, and actions, were entirely inconsistent with the allegation raised by the Applicant, that she knew the transaction was fraudulent.

- 78.13 On 24 November 2016, the Second Respondent telephoned KH explaining that she was disappointed completion would not take place on that date. The note records:

“KH was extremely upset and equally annoyed; the duration of the call was ten minutes. Throughout the entire telephone conversation KH expressed his disappointment utter disappointment in SP. KH asked if I can do something; I replied that it is pretty much out of my hands. However, I will try to put as much pressure as I can to get this matter resolved. KH mentioned that he is of the belief that we are not going to complete on Friday, I replied that it could well be the reality of the situation. KH stated that he has promised money to people for a long time now, also that RS has promised him money that has not been paid. I explained that all I can do is put pressure on RS to get this done, my hands are tied. I will continue to do what I am doing until I can get this sorted; I mentioned to KH I will speak to RS to see if he can provide him with some funds as was promised and I would call him back”.

- 78.14 On 25 November 2016 the Second Respondent telephoned KH who enquired if she had spoken to RS. The Second Respondent said she had not. The note states as follows:

“KH said that he is pulling out because RS had called him to discuss issues to do with the house. RS informed KH that there has been a deficit somewhere along the way of £11,000.00 and therefore will be unable to pay KH the full amount agreed. I believe the agreed amount was £99,000.00 and now he will be getting £,80,000.00.

KH stated that under no certain terms will he accept this, KH was incredibly, incredibly frustrated, and annoyed. KH asked me quite clearly to be honest with him. I stated that I would because he is my client; KH asked if I had anything to do with RS? I explained that as I have said to him several times that I do not. RS refers work to me, once I am in receipt of the paperwork, they are my clients. I have nothing to do with RS, I have no obligations to RS whatsoever. RS do not pay RS (sic) any commission nor does he pay me any; I am just paid for the work that I do. KH asked why he could not have used his own solicitors? I explained that I was of the understanding that he was given a choice. Furthermore, the reason we work with RS is because we work well with the other solicitors who are buyer's solicitors to get properties sold quickly, effectively, and professionally. KH then gave me strict instructions not to call RS, I replied that I won't “

- 78.15 On 29 November 2016, the Second Respondent telephoned KH to enquire as to whether he had progressed the matter with RS. The note records, *“KH explained that he is unhappy about the situation and would like to pull out. I stated that was completely and utterly his choice. KH asked me to hold fire until tomorrow, because he is still unhappy with RS' actions”.*

- 78.16 On 30 November 2016, the Second Respondent telephoned KH. The telephone attendance note states, amongst other things:

“I stated that I had informed RS that KH is completely unaware of what the deductions are and I am unhappy and I will not proceed until the (sic) is resolved. KH said that was fine. KH is aware that £90,000.00 is going to two companies and believes that he is being ripped off, however, he still wants to go ahead. I explained to KH that I am unhappy about the situation and he must think about this carefully, however, it’s his decision. Providing he has read the invoice and the agreement and that he was happy to sign. I asked if any duress was put on him; KH replied that no duress was put on him at all. KH said that he wants to complete on Friday and instructed to go ahead with completion for Friday, I said that is fine; if that’s his wishes”.

78.17 On 1 December 2016, the Second Respondent telephoned KH with a note recording, *“KH stated that he was happy with completion statement”*. Later the same day, the Second Respondent contacted KH explaining that she had spoken to the purchaser’s solicitor. The note records, *“I am going to preliminary do a completion statement for KH which I will be emailing, KH mentioned that he was not too bothered and that I should go ahead and just do it. I explained that importance of the completion statement and I must get his full and complete approval before we complete. KH said that was fine, he further mentioned that he is aware that he is not getting the best deal out of this situation. KH said that things will come into play for him and wants to proceed. I said as long as he is happy and I can go through the completion statement with him. I mentioned to KH that I will draft a completion statement and send it to him so we can have a quick chat before we can set things up.”*

78.18 Mr Goodwin submitted that the Second Respondent used her best endeavours to ensure that KH understood the position, and was content to proceed and that again, this was evidence of a solicitor acting openly, honestly, and in the best interests of the client and not, as Ms Bruce had maintained the provision of false assurance and a veneer of respectability in an obviously fraudulent transaction.

Mr Goodwin’s closing submissions on behalf of the First and Second Respondent.

79. The burden of proving the case against the First and Second Respondent rested solely on the Applicant and to the requisite standard, namely the balance of probabilities. The Respondents did not need to prove anything.

80. Mr Goodwin reminded the Tribunal of the judgment in Re H (Minors) [1996] AC 563 when Lord Nicholls explained that the balance of probabilities was a flexible test: *“The balance of probability standard means that a court is satisfied an event occurred if the court considers that, on the evidence, the occurrence of the event was more likely than not. When assessing the probabilities the court will have in mind as a factor, to whatever extent is appropriate in the particular case, that the more serious the allegation the less likely it is that the event occurred and, hence, the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability. Fraud is usually less likely than negligence.... Built into the preponderance of probability standard is a generous degree of flexibility in respect of the seriousness of the allegation. Although the result is much the same, this does not mean that where a serious allegation is in issue the standard of proof required is higher. It means only that the inherent probability or improbability of an event is itself a matter to be taken into account when weighing the probabilities and*

deciding whether, on balance, the event occurred. The more improbable the event, the stronger must be the evidence that it did occur before, on the balance of probability, its occurrence will be established.”

81. Mr Goodwin said that The First and Second Respondent’s knowledge or belief as to the facts, at the time of the transactions, informed their approach. The First and Second Respondent’s genuinely believed the transactions to be legitimate, and proceeded upon the instruction, authority and consent of their clients. The Applicant’s case against the First and Second Respondent was premised on inference alone. There was no cogent evidence to support the allegations of dishonesty and or recklessness and no ‘*smoking gun*’ evidence which would permit the Tribunal to determine that the First and Second Respondent’s conduct had been dishonest and or reckless.
82. Neither the First nor the Second Respondent had known that the transactions bore a number of suspicious features and the hallmarks of fraud.
83. The First and Second Respondent’s to their credit, and supportive of genuine insight, admitted certain of the allegations (*see below*) as representing breaches to the identified Principles, but absent knowledge that the transactions were fraudulent, or that they were aware, that the transactions bore any suspicious features and the hallmarks of fraud and money laundering.
84. With respect to dishonesty Mr Goodwin reminded the Tribunal of the test set out in Ivey v Genting Casino’s Ltd t/a Crockfords [2017] UKSC 67 (*set out in more detail below*).
85. The First and Second Respondent proceeded in the honest and genuine belief, that they had made proper enquiries relating to the transactions, provided proper advice to their clients regarding the payments to third-party companies, and obtained the clients consent to make the payments to the third-party companies.
86. The First and Second Respondent now accepted, with the benefit of hindsight, that certain of the transactions had suspicious features, but such knowledge and errors of judgment did not render retrospectively their conduct to have been dishonest.
87. Ordinary decent people, in full knowledge as to the facts and circumstances, existing at the relevant time, together with the explanations provided by the First and Second Respondent’s, would not consider their actions to be dishonest.
88. Mr Goodwin read to the Tribunal over 10 references and testimonials written on the Respondents’ behalf. Mr Goodwin reminded the Tribunal that evidence of a person’s good character was relevant in two important respects: first, to demonstrate that the person, the subject of the allegation, did not have a propensity to behave in the manner alleged and, second, to lend credibility to the First and Second Respondent’s stated position, that they had not acted dishonestly, as alleged, or at all.
89. The character references were from people who knew the First and Second Respondents in a personal and professional capacity and Mr Goodwin submitted that the references, individually and collectively, demonstrated that the First and Second

Respondent were of the highest integrity, probity and trustworthiness, and of exemplary character. The First and Second Respondent's valued greatly their qualification as solicitors and would not knowingly do anything to jeopardise their qualification.

90. With respect to the allegations of recklessness Mr Goodwin reminded the Tribunal of the test for recklessness set out in Brett v SRA [2014] EWHC 1974 and that the test relied upon by the Applicant required the First and Second Respondent's to have been aware of a risk and that they knew the transactions bore a number of suspicious features and hallmarks of fraud and for them to have continued with the transactions in light of that knowledge and risk.
91. Mr Goodwin submitted that The First and Second Respondent had not been aware and did not know or identify any suspicious features and hallmarks of fraud at the time of the transactions. Absent knowledge of any suspicious features and hallmarks of fraud, the First and Second Respondent did not take an unreasonable risk in proceeding with the transactions and, as such, did not act recklessly.

The Allegations and alleged breaches of the Principles.

92. **Allegations 1.1 (*First Respondent*) and 2.1 (*Second Respondent*)**

The Applicant's Case

- 92.1 In respect of each Respondent it was alleged that between 2013 and 2017, they had caused or allowed the Firm to act in conveyancing transactions which they knew to be fraudulent and, in doing so, breached any or all of Principles set out below. It was said that they acted in the knowledge that the SP Transactions were fraudulent. In support of the allegation that each Respondent was aware of the nature of the fraud, the Applicant relied in particular on the following matters:
 - The nature of the transactions, and in particular the extraordinary circumstances whereby many of the Firm's clients sold their homes without receiving much or any of the proceeds of sale, because of unusual payments to obscure entities which had no credible or consistent basis for the payments being made, was so obviously suspicious that any reasonable person considering the transaction would be concerned as to the authenticity of the arrangements.
 - Notwithstanding the obviously suspicious nature of the transactions, the Respondents made no proper attempts to scrutinise or investigate the circumstances of the transaction or ensure that their clients genuinely consented to and wished to proceed with such disadvantageous arrangements.
 - The Respondents continued to act in transactions involving SP even after the First Respondent was aware that the police were investigating one of the Firm's matters due to the payments made to third parties by the Firm.

- During interviews conducted with representatives of the Firm's insurer, neither Respondent was able to give any coherent or satisfactory explanation as to why the Firm failed to scrutinise the circumstances of the transactions properly.
- In the circumstances, it was to be inferred that one or both of the Respondents was aware of the true nature of the transactions and that no proper attempts were made to investigate the suspicious transactions or give proper advice to clients because one or both of the Respondents were knowingly and dishonestly cooperating in the fraudulent transaction.

92.2 It was said that the conduct of the First Respondent and the Second Respondent amounted to the below.

92.3 *Breach of Principle 2 of the Principles (integrity)*

92.3.1 In Wingate v Solicitors Regulation Authority v Malins [2018] EWCA Civ 366, it was said that integrity connotes adherence to the ethical standards of one's own profession. Solicitors acting with integrity would not knowingly have participated in fraudulent transactions and by doing so the Respondents failed to act according to the ethical standards of their profession, which require honesty, upholding the rule of law and protecting the interests of the client. As such, they failed to act with integrity and breached Principle 2.

92.4 *Breach of Principle 4 of the Principles (best interests)*

92.4.1 The Respondents acted in breach of the requirement to act in the best interests of their clients. Any solicitor who knowingly participates in a fraud on a client commits a flagrant breach of the duty under Principle 4 to act in the best interests of each client. The solicitor is required to show single-minded devotion to the best interests of the client, and such conduct would require the solicitor to advise the client about the true nature of the transaction and take all available steps to assist the client to avoid falling victim to the fraud.

92.5 *Breach of Principle 5 of the Principles (proper service)*

92.5.1 The requirement under Principle 5 to provide a proper standard of service to clients would similarly require the solicitor to advise the client about the true nature of the transaction and take all available steps to assist the client to avoid falling victim to the fraud.

92.6 *Breach of Principle 6 of the Principles (public trust)*

92.6.1 The participation of solicitors in a fraudulent conveyancing transaction directly undermines the trust the public can place both in that solicitor and in the provision of legal services more widely. Accordingly, the Respondents breached Principle 6.

92.7 *Breach of Principle 10 of the Principles (protect client money)*

92.7.1 Principle 10 requires that solicitors protect client money and assets. Knowingly participating in a transaction whereby the client is fraudulently deprived both of their home and some or all of the proceeds of sale is a direct contravention of Principle 10.

Dishonesty in respect of allegations 1.1 and 2.1

92.8 For a solicitor to participate in a transaction knowing it to be a fraud on the solicitor's client would be dishonest according to the standards of ordinary decent people. The test for dishonesty to be applied by the Tribunal is that explained by Lord Nicholls in Royal Brunei Airlines v Tan [1995] 2 AC 378 and by Lord Hoffman in Barlow Clowes International Ltd v Eurotrust International Ltd [2005] UKPC 37.

92.9 That test was confirmed by the Supreme Court in Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 where the court held that:

“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 factfinder 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.”

The First Respondent and Second Respondents' case.

92.10 With respect to Allegations 1.1 and 2.1 the First and Second Respondent denied, respectively, both allegations in their entirety, for the reasons set out above in their explanation of events. It was each their case that they did not 'cause or allow' the Firm to act in conveyancing transactions which they knew to be fraudulent. Mr Goodwin submitted that there was no evidence to support such the assertion that the First and Second Respondent had been in 'cahoots' with SP. Neither the First Respondent nor the Second Respondent had been dishonest. Dishonesty was a very serious allegation for which there was no evidence. In this case.

The Tribunal's Findings

92.11 In accordance with Rule 5 of The Solicitors (Disciplinary Proceedings) Rules 2019, as amended by The Solicitors (Disciplinary Proceedings) (Amendment) Rules 2020, the Tribunal applied the civil standard of proof. .

92.12 The Tribunal reviewed all the material before it and listened with considerable care to the submissions made by Ms Bruce and Mr Goodwin, the witness evidence, including the testimonials presented to it.

- 93.13 The Tribunal noted that Allegations 1.1 and 2.1 were predicated on the basis of *actual* knowledge i.e. that the First and Second Respondent had known that the transactions were fraudulent.
- 93.14 The Tribunal noted that it was common ground that, in large measure, the allegations depended upon inference, with the parties differing in their submissions as to how much weight the Tribunal should attach to such inferential evidence.
- 93.15 Ms Bruce had submitted that in cases involving fraudulent activity there was often no direct evidence and that such prosecutions depended upon viewing the circumstances set out in the allegations as a whole and then drawing the relevant conclusions from the factual context of the case.
- 93.16 Mr Goodwin had submitted that there was little or no evidence in this case to enable the Tribunal to find, on the balance of probabilities, that either the First and/or Second Respondent had known that they had acted in transactions which were fraudulent as neither Respondent had been aware that RB and SC were connected to SP and they had not been aware of the Tribunal's earlier findings against RB and SC, and of RP's criminal conviction.
- 93.17 Further, neither Respondent had been aware of any connection between SP and the purchasers of the properties and the Respondents considered they had conducted sufficient due diligence into SP. Lastly, the Firm's clients had given the Firm their authority to make the payments to the third- party companies.
- 93.18 Having weighed the evidence with respect to these allegations the Tribunal considered that the evidence set out by the Applicant with respect to Allegations 1.1 and 2.1, and upon which, the Applicant invited the Tribunal to draw certain inferences was insufficient for it to do so, to the requisite standard.
- 93.19 The Tribunal reviewed the evidence but considered that that there was no persuasive evidence of actual knowledge on the part of the First and Second Respondent as to the alleged fraudulent nature of the transactions.
- 93.20 With respect to the matters set out above the Tribunal did not find the factual basis of Allegation 1.1 and 2.1 proved to the requisite standard, namely on the balance of probabilities, and the Tribunal did not as a consequence consider there had been any breaches of the Principles in Allegation 1.1 as pleaded or go on to consider the issue of dishonesty.
- 93.21 Allegations 1.1 and 2.1 were not proved on the balance of probabilities.

94. **Allegations 1.2 and 2.2**

The Applicant's Case

- 94.1 In support of the allegation that the transactions bore a number of suspicious features and the hallmarks of fraud and money laundering, the Applicant relied on the facts and matters set out at paragraphs above.

94.2 It was said that the conduct of the First Respondent and the Second Respondent amounted to the below.

94.3 *Breach of Principle 2 of the Principles (integrity)*

94.3.1 In knowingly participating in suspicious transactions and transactions bearing the hallmarks of fraud or money laundering, the Respondents failed to act according to the ethical standards of their profession, which require honesty, upholding the rule of law and protecting the interests of the client. As such, they failed to act with integrity and breached Principle 2 of the Principles.

94.4 *Breach of Principle 4 of the Principles (best interests)*

94.4.1 Any solicitor who knowingly participates in a suspicious transaction or one bearing the hallmarks of fraud on a client or money laundering breaches the duty under Principle 4 to act in the best interests of each client. The solicitor is required to show single-minded devotion to the best interests of the client, and such conduct would require the solicitor to investigate those suspicious features in detail, advise the client about the concerns as to the true nature of the transaction and take all available steps to assist the client to avoid falling victim to any fraud.

94.5 *Breach of Principle 5 of the Principles (proper service)*

94.5.1 The requirement under Principle 5 to provide a proper standard of service to clients would similarly require the solicitor to investigate the transaction thoroughly and advise the client about concerns the true nature of the transaction and take all available steps to assist the client to avoid falling victim to any fraud.

94.6 *Breach of Principle 6 of the Principles (public trust)*

94.6.1 The knowing participation of solicitors in conveyancing transaction suspected to be fraudulent, involve money laundering or otherwise being suspicious directly undermines the trust the public can place both in that solicitor and in the provision of legal services more widely. Accordingly, the Respondents breached Principle 6 of the Principles.

94.7 *Breach of Principle 10 of the Principles (protect client money)*

94.7.1 Principle 10 requires that solicitors protect client money and assets. Participating in a transaction despite knowing that the transaction is suspicious or bears the hallmarks of fraud or money laundering exposes the client to the risk that the client is fraudulently deprived both of their home and some or all of the proceeds of sale is a direct contravention of Principle 10 of the Principles.

94.7.2 Further, each of the Respondents breached the requirement in Outcome 7.5 of the SRA Code of Conduct 2011 to comply with legislation applicable to the firm, including in particular the anti-money laundering requirements of the 2007 Regulations.

Allegations of dishonesty or recklessness

- 94.8 For a solicitor to continue to participate in a transaction knowing that there were suspicious features and grounds for it to be considered a fraud on the solicitor's client or involve money laundering would be dishonest according to the standards of ordinary decent people, as required by the test confirmed by the Supreme Court in Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 set out above.
- 94.9 Alternatively, it is alleged that the Respondents were reckless. The test for recklessness was set out in the case of Brett v SRA [2014] EWHC 1974, in which the Court adopted the working definition of recklessness from the case of R v G [2004] 1 AC 1034. Conduct is reckless (i) with respect to a circumstance, when (the solicitor) is aware of a risk that it exists or will exist and (ii) with respect to a result when (the solicitor) is aware that a risk will occur and it is, in circumstances known to them, unreasonable for them to take the risk.
- 94.10 In continuing to act in respect of a transaction they knew bore a number of suspicious features and the hallmarks of fraud and money laundering exposed their clients to the risk of very serious harm, and it was unreasonable for them to expose their clients to that risk.
- 94.11 If, contrary to the SRA's primary case, the Respondents or either of them did not know that the transactions bore a number of suspicious features and the hallmarks of fraud and money laundering, it is alleged that their failures to appreciate the suspicious elements of the transactions were sufficiently serious as to constitute a breach of the Principles justifying a sanction from the Tribunal.

The First and Second Respondent's Case

- 94.12 The First and Second Respondent each denied that they had known of the matters particularised at 1.2.1/2.2.1, 1.2.2/2.2.2 and 1.2.3/2.2.3.
- 94.13 However, each Respondent admitted that they ought to have known that the transactions bore:
- 1.2.1/2.2.1 a number of suspicious features; and
 - 1.2.2/2.2.2 the hallmarks of fraud.
- 94.14 As such, each admitted they had breached any, or all, of Principles 4, 5, 6, and 10 of the Principles.
- 94.15 Each Respondent denied that they ought to have known that any of the transactions had the hallmarks of money laundering (1.2.3/2.2.3) on the basis that the funds involved arose from the sale of the properties, the subject of the identified

transactions, being a legitimate and known source of funds. They denied having failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011.

- 94.16 The First and Second Respondent denied they had breached of Principle 2 of the Principles and denied that they had acted dishonestly or recklessly on the basis of their evidence and the submissions made on their behalf and set out above.

The Tribunal's Findings

- 94.17 With respect to Allegation 1.2 and 2.2 the Tribunal was satisfied on the balance of probabilities that the Respondents' admissions were properly made and that the conduct admitted by the First and Second Respondent had been breaches of Principles 4, 5, 6, and 10 of the Principles.
- 94.18 The First and Second Respondent had been experienced conveyancing solicitors and they had rightly accepted that they ought to have known the transactions involving SP were suspicious. The need of most, if not all, the clients in these particular transactions to make quick sales of their home and most important asset should have alerted the Respondents to their clients' vulnerabilities and to take particular care on their clients' behalf.
- 94.19 The fact that they were sending life changing sums of money to third-party companies, repeatedly, in circumstances where there appeared to be no basis to do so along with last minute changes to the purchase price in some cases ought to have alerted the Respondents to the questionable nature of the transactions.
- 94.20 The Tribunal accepted as a fact that as the Firm's MLRO the First Respondent had undertaken training on anti-money laundering measures. Therefore, the First Respondent ought to have been aware of the SRA's Warning Notice on Money Laundering and Terrorist Financing, published in December 2014.
- 94.21 As a qualified solicitor conducting conveyancing transactions from October 2013 onwards, the Second Respondent ought also to have been aware of the Warning Notice from its publication in December 2014 onwards. The Warning Notice on Money Laundering and Terrorist Financing specifically draws attention to the following risk factors and suspicious features:
- Use of intermediaries by clients.
 - Apparent connections with other parties to a transaction.
 - Unusual features of a transaction including the manner of execution, potentially loss-making transactions, repetitive instructions involving common features or parties, requests to make payments to third parties.
 - Unusual instructions such as clients appearing to lack knowledge about the transaction. The Warning Notice concludes that the SRA expects 'firms and individuals to be aware of, and act properly upon, warning signs that a transaction may be suspicious'.

- 94.22 This was not a question of hindsight: all these features, indicative of money laundering were present at the time the Respondents involved themselves in the transactions and when applying the requisite standard of proof, namely the balance of probabilities, the First and Second Respondent ought to have been aware that the conveyancing transactions bore the hallmarks of money laundering as set out in Allegations 1.2.3 and 2.2.3.
- 94.23 The Tribunal considered that the Respondents each acted with a degree of repeated carelessness that rendered their conduct a breach of Principle 2 of the Principles. In participating in transactions which they ought to have perceived as suspicious and transactions bearing the hallmarks of fraud or money laundering, the Respondents failed to act according to the ethical standards of their profession, which require upholding the rule of law and protecting the interests of the client. As such, they failed to act with integrity and breached Principle 2 of the Principles.
- 94.24 Having found that both Respondents ought to have known that the transactions bore the hallmarks of money laundering it followed that they had failed to achieve Outcome 7.5 which required the First and Second Respondent to comply with legislation applicable to the Firm, including in particular the anti-money laundering requirements of the 2007 Regulations.
- 94.25 The Tribunal next considered the allegations of dishonesty and recklessness.
- 94.26 The Tribunal considered that when analysed under the test set out in Ivey the evidence was, on balance, insufficient for the Tribunal to make a finding of dishonesty when applying the requisite standard of proof, namely the balance of probabilities.
- 94.27 As a general observation the Tribunal considered that the First and Second Respondents had presented as credible witnesses of fact and there was evidence which militated against a finding of dishonesty, for example, that the Respondents had sought guidance from the Applicant on how to proceed when they had been contacted by the police. There was insufficient evidence for the Tribunal to conclude, to the requisite standard, that the Respondents had known the transactions were fraudulent and, on balance, it was more likely than not that their conduct would not have been considered dishonest by the standards of ordinary decent people.
- 94.28 In this regard the Tribunal was assisted in reaching its decision on dishonesty by the wealth and quality of the character evidence presented to it on the Respondents' behalf by Mr Goodwin. The authors of the testimonials (over ten in number) to a person were aware of all the allegations faced by the Respondents but none could conceive that the Respondents would act dishonestly in any regard. The force of this evidence weighed heavily in the Respondents' favour to the extent that, when viewing this in the context of all the other evidence, the Tribunal considered it was inherently unlikely that the Respondents had acted dishonestly in this case.
- 94.29 The Tribunal did not find dishonesty in Allegations 1.2 and 2.2 proved on the balance of probabilities.
- 94.30 Having found, on the balance of probabilities, that the Applicant's evidence had not been sufficient to demonstrate dishonesty the Tribunal next considered recklessness.

- 94.31 The Tribunal recognized that the test for recklessness in regulatory proceedings is that in Brett v SRA [2014] EWHC 1974.
- 94.32 The First Respondent was the COLP, COFA and MLRO of the Firm and the Second Respondent was an experienced conveyancing solicitor working under the First Respondent's guidance and supervision. Both were aware of the SRA Warning Notice on Money Laundering and Terrorist Financing, and both had been aware of concerns raised by their clients e.g., from KH; the letter from Citizens Advice; the obvious vulnerabilities of their clients; last minute changes to the purchase price of some of the properties and the payments to third parties: this had all been within their knowledge.
- 94.33 Absent dishonesty, the Respondents had displayed careless behaviour which became habituated transaction after transaction and from which it was reasonable to infer, bearing in mind the Warning Notice on Money Laundering and Terrorist Financing which had been in their knowledge, that they had known there had been an obvious risk that the transactions were fraudulent and/or bore the hallmarks of money laundering.
- 94.34 The First and Second Respondent had therefore been reckless in continuing to act in respect of such transactions and they had exposed themselves and their clients to the risk of very serious harm, in circumstances where, with respect to matters within their knowledge, it had been unreasonable for them to expose themselves and their clients to such risk.
- 94.35 The Tribunal found Allegations 1.2 and 2.2 proved in part to the requisite standard of proof, namely on the balance of probabilities.

95. **Allegations 1.3 and 2.3**

The Applicant's Case

- 95.1 Against the First Respondent (1.3), that: between 2013 and 2017, in relation to the transactions referred to at allegation 1.1 and 1.2 above, she failed to ensure that she and/or her firm:
- carried out proper enquiries in relation to those transactions;
 - properly advised her clients regarding the payments to third-party companies;
 - obtained her clients' informed consent to make the payments to those third party companies;
- and therefore breached any or all of Principles 2, 4, 5, 6, 8 and 10 of the SRA Principles 2011 and Outcome 1.2 of the SRA Code of Conduct 2011.
- 95.2 Against the Second Respondent (2.3), that: between 2013 and 2017, in relation to the transactions referred to at allegations 2.1 and 2.2 above, she failed to ensure that she:
- carried out proper enquiries in relation to those transactions;
 - properly advised her clients regarding the payments to third-party companies;

- obtained her clients' informed consent to make the payments to those third party companies; and therefore breached any or all of Principles 2, 4, 5, 6, and 10 of the SRA Principles 2011 and Outcome 1.2 of the SRA Code of Conduct 2011.

95.3 As set out above, the Respondents failed to ensure that their clients were properly advised, about the nature and amounts of the payments to be made to third parties, and failed to obtain their clients' informed consent to the transactions. For the reasons set out at above, the Respondents were each obliged to make the necessary enquiries and give the necessary advice, as well as taking properly informed instructions from their clients having done so.

95.4 It was said that the conduct of the First Respondent and the Second Respondent amounted to the below.

95.5 *Breach of Principle 2 of the Principles (integrity)*

95.5.1 The Respondents' failure to take basic steps to protect their clients' interests involved repeated breaches of duty over the course of a large number of transactions which had seriously harmful consequences for the Firm's clients. The Respondents' conduct was characterised by prioritising their own convenience, and the Firm's relationship with its referrer, SP, over their duties to their clients and their regulatory responsibilities. As such, the Respondents failed to act in accordance with the ethical standards of their profession, which required them to take the utmost care in protecting their clients' interests, and accordingly breached Principle 2 of the Principles.

95.6 *Breach of Principle 4 of the Principles (best interests)*

95.6.1 Under Principle 4 and Outcome 1.2 of the SRA Code of Conduct 2011, the Respondents were each required to act in their clients' best interests and to provide the conveyancing services in a manner which protected their clients' interests. By failing to make the enquiries, give necessary advice and obtain the informed consent referred to above, the Respondents failed to do so.

95.7 *Breach of Principle 5 of the Principles (proper service)*

95.7.1 In accordance with Principle 5, the Respondents were required to provide a proper standard of service to their clients. By failing to make the enquiries, give necessary advice and obtain the informed consent referred to above, the Respondents failed to do so.

95.6 *Breach of Principle 6 of the Principles (public trust)*

95.6.1 The Respondents' failures to protect their clients' interests were extremely serious, such that they undermine the trust that the public may place in them and in the provision of legal services as a whole. Accordingly, the Respondents' conduct was in breach of Principle 6 of the Principles.

95.7 *Breach of Principle 8 of the Principles (the First Respondent only)*

95.7.1 The First Respondent, as the manager of the Firm and its COLP, COFA and MLRO, was required under Principle 8 to run the Firm's business, and to carry out her role in the business, effectively and in accordance with sound financial and risk management principles. The First Respondent failed to:

- adequately to supervise the Second Respondent's conduct of the matter, by ensuring that a sufficient degree of supervision and control was in place to ensure that transactions did not proceed without making proper enquiries as to relevant features of the transactions, without giving essential advice to clients and obtaining properly informed consent to payments to third parties;
- to take adequate steps to ensure that payments were not made to third parties without (i) a proper justification for the payment, and (ii) informed consent from the Firm's clients.

95.8 *Breach of Principle 10 of the Principles (protect client money)*

95.8.1 In accordance with Principle 10, the Respondents were required to protect their clients' money and assets. By failing to make the enquiries, give necessary advice and obtain the informed consent referred to above, the Respondents failed to do so and exposed their clients to transactions whereby their homes were sold but they did not receive the amount properly due to them from the proceeds of sale.

95.9 In respect of the above breaches, it is alleged that the Respondents' failures were sufficiently serious as to constitute a breach of the Principles justifying a sanction from the Tribunal. In so far as it is necessary for the SRA so to prove, the Respondents' failures professional misconduct.

Allegation of recklessness

95.10 The Respondents' failures were sufficiently serious and obvious that it is reasonable to infer that they were aware that they were exposing their clients to the risk of harm, whether or not they were in fact aware, as alleged above, that the transactions were suspicious and bore the hallmarks of money laundering. There was no reasonable or legitimate basis on which to expose their clients to that risk. Accordingly, the Respondents' conduct was reckless as to the risk to which they exposed their clients.

The First and Second Respondent's Case

95.11 The First Respondent admitted that her conduct with respect to this allegation had been a breach of Principles 4, 5, 6, 8 and 10 of the Principles.

95.12 The First Respondent denied the allegation at 1.3.3. on the basis that all the payments had been with the clients' knowledge, consent and authority.

- 95.13 The First Respondent denied a breach of Principle 2 of the Principles and denied a failure to achieve Outcome 1.2 of the SRA Code of Conduct 2011.
- 95.14 The Second Respondent admitted that her conduct with respect to this allegation had been a breach of Principles 4, 5, 6, and 10 of the Principles.
- 95.15 The Second Respondent denied the allegation at 2.3.3. on the basis that all the payments had been with the clients' knowledge, consent and authority.
- 95.16 The Second Respondent denied a breach of Principle 2 of the Principles and denied a failure to achieve Outcome 1.2 of the SRA Code of Conduct 2011.

The Tribunal's Findings

- 95.17 With respect to Allegations 1.3 and 2.3 the Tribunal was satisfied on the balance of probabilities that the Respondents' admissions were properly made and that the conduct admitted by the First and Second Respondent had been breaches of Principles 4, 5, 6, and 10 of the Principles and also Principle 8 in the case of the First Respondent.
- 95.18 On the basis of the Respondents admissions to Principle 4 of the Principles the Tribunal was able find on the balance of probabilities that each Respondent had failed to achieve Outcome 1.2, namely they had not provided services to their clients in a manner which protected their interests in their matter, subject to the proper administration of justice.
- 95.19 The Tribunal found also proved on the balance of probabilities that the Respondents had not obtained their clients' informed consent to make the payments to the third-party companies. It had been demonstrated by Ms Bruce that neither the First nor the Second Respondent had had any real grasp or understanding as to why such payments were being made. In the absence of such a necessary understanding it would not have been possible for the Respondents to provide their clients with the requisite legal advice to enable their clients to provide informed consent.
- 95.20 The Tribunal therefore found Allegations 1.3.3 and 2.3.3 proved on the balance of probabilities.
- 95.21 The Tribunal also found proved to the same standard that the conduct of the First and Second represented a breach of Principle 2 of the Principles.
- 95.22 In reaching this decision the Tribunal adopted the reasoning set out by the Applicant, which the Tribunal considered encapsulated succinctly the breadth of the Respondents' misconduct in this regard, namely, the Respondents' *'failure to take basic steps to protect their clients' interests involved repeated breaches of duty over the course of a large number of transactions which had seriously harmful consequences for the Firm's clients. The Respondents' conduct was characterised by prioritising their own convenience, and the Firm's relationship with its referrer, SP, over their duties to their clients and their regulatory responsibilities. As such, the Respondents failed to act in accordance with the ethical standards of their profession,*

which required them to take the utmost care in protecting their clients' interests, and accordingly breached Principle 2 of the Principles.'

- 95.23 With respect to recklessness, the Tribunal also found this proved on the balance of probabilities against each Respondent. The Respondents were aware of their clients vulnerabilities and by allowing their clients to pursue transactions which had unusual characteristics in which neither Respondent understood the reason for the payments of substantial sums to third parties they had exposed their clients to risk, unreasonably, and had acted recklessly in doing so. The assurance they provided to their clients had been bereft of substance and of no real use to their clients, many of whom had been desperate for money and whose interests were not protected by the First and Second Respondent.
- 95.24 The Tribunal found Allegations 1.3 and 2.3 proved in full to the requisite standard of proof, namely on the balance of probabilities.

96. Allegation 1.4 (First Respondent only)

The Applicant's Case

- 96.1 Between 2013 and 2017, in relation to the transactions referred to at allegation 1.1 and 1.2. above, the First Respondent entered into a referral arrangement and received fee income as a result of that work in circumstances which compromised her independence and that of the Firm, and accordingly breached Principle 3 of the SRA Principles 2011.
- 96.2 As set out during the years in which referrals were accepted from SP, the work done on such matters amounted to a significant proportion of the Firm's turnover, i.e. between 9% and 15% annually.
- 96.3 In relation to these transactions it was said that the First Respondents actions amounted to the below.
- 96.4 *Breach of Principle 3 of the Principles (independence)*
- 96.4.1 In relation to the transactions and therefore in relation to a significant proportion of the Firm's turnover, the Firm depended on SP to identify and refer clients, provide client care letters to the clients, and obtain instructions from the clients. Neither the Firm nor either of the Respondents independently considered the instructions given or apparently given by clients, the accuracy or authenticity of those instructions as communicated to the Firm, or whether those instructions indicated that the transaction arranged by SP was in the best interests of their clients.
- 96.5 In so acting, and in permitting the Firm so to act, the First Respondent allowed her independence to be compromised, in breach of Principle 3 SRA Principles 2011.

The First Respondent's Case

- 96.6 The First Respondent denied the allegation on the basis that there was no referral arrangement. The First Respondent said that only money received related to the fee of £600.00 for dealing with each conveyancing transaction. The firm did not pay a referral fee.

The Tribunal's Findings

- 96.7 The Tribunal found this allegation proved on the balance of probabilities. There was an unnecessarily close relationship between SP and the First Respondent. In giving evidence it was not clear to the Tribunal that the First Respondent had ever formed a clear distinction in her own mind as to who her client had actually been in the transactions.
- 96.8 Indicative of the First Respondent's conduct in abdicating her independence was the process by which she allowed SP to send out the Firm's client care letters, although this may have been later rectified, it was something which should never have happened and it represented a blurring of the lines between the First Respondent and SP, and of the functions which were the Firm's responsibility alone
- 96.9 The Tribunal found Allegation 1.4 with respect to the First Respondent proved in full to the requisite standard, namely the balance of probabilities.

Previous Disciplinary Matters

97. There were no previous matters against either the First or Second Respondent.

Mitigation

First Respondent

98. Upon qualification, the First Respondent commenced employment as the Merseyside Race Complaints Officer in Liverpool. The role required her to investigate and deal with claims for race discrimination against public and private bodies, the police and educational institutions.
99. Having worked successfully in other firms the First Respondent set up her own Firm in 2007 where she worked hard to build, and develop, excellent working relationships with other solicitors and establish a client base. The First Respondent said that she always put her clients' interests and needs first and foremost, and she had worked long hours, sacrificing aspects of her family life.
100. Most, if not all, of her clients were referred to her by word of mouth and she at all times strived to offer the very best standard of service to her clients.
101. In her 20 year career, there had never been any reason for the SRA, or anyone, to question her integrity and honesty, and she had always complied with the rules and training requirements. The First Respondent's income was solely derived from the Firm and she would have not knowingly done anything to place this in jeopardy.

102. The allegations had turned my life upside down and she had been forced to change career, and she was currently employed as a Domestic Abuse Key Worker for a ladies' refuge where her role consisted of assisting ladies and children who had been the subject of domestic abuse.
103. In addition to working for the refuge, the First Respondent is also a part-time carer for her aunt and her aged grandmother. The First Respondent also offered free legal advice at a local temple.
104. The First Respondent was proud of being a solicitor, and when she ran her Firm she made sure that her practice had the capacity to take on at least one pupil from local schools for work experience.

The Second Respondent

105. Before becoming a solicitor, the Second Respondent volunteered, and was subsequently employed, by a national charity, Victim Support/Witness Service for a period of approximately nine years. In this role she provided both emotional and practical support to victims and anyone affected by crime.
106. The Second Respondent undertook the Common Professional, and subsequently the Legal Practice Course, on a part-time basis in the evenings, whilst she continued to work full-time.
107. The Second Respondent said that her qualification as a solicitor was a matter of immense pride for her and her family.
108. The whole approach of the Firm was dedicated to acting in the best interests and needs of its clients. The Second Respondent worked long hours during the week, and often at weekends, to ensure that the work was done and to meet any due dates, in the best interests of her clients. Kumari-Banga was a busy and successful firm, despite not advertising for work as nearly all of its work was through word of mouth referrals.
109. The Second Respondent had always prided herself on her integrity, honesty, professionalism and empathy and to be accused of acting dishonestly was both soul destroying and humiliating and it had also affected her health, the details of which were made known to the Tribunal.
110. The Second Respondent had always been mindful of her role in the community and had had actively engaged with local charitable trusts to raise money for their good causes.
111. Mr Goodwin reminded the Tribunal of the substantial number of good character references prepared on behalf of the First and Second Respondent which spoke to their exemplary characters, honesty and good qualities as solicitors and as people.
112. The First and Second Respondent accepted that they should have approached matters differently. Both Respondents apologised to the Tribunal, the profession, and their clients for the mistakes they made. The public, however, did not require protection from them and Mr Goodwin urged the Tribunal to show leniency and compassion in

reaching its sanction. This was not, he submitted, at the highest level of misconduct as dishonesty had not been found by the Tribunal, and the First and Second Respondent did not deserve the ultimate sanction, strike off, or even a suspension.

113. Mr Goodwin suggested that a Fine at Level 3 (*conduct assessed as more serious £7,501- £15,000*) of the Indicative Fine Bands as set out in the latest edition of the Tribunal's Guidance Note on Sanctions would be a just and proportionate sanction, given the Respondents' admissions and genuine insight.
114. Mr Goodwin referred the Tribunal to the Respondents' statements of means and said that whilst both were engaged in worthwhile employment they were modestly paid for their work and each now had limited resources to draw upon.
115. Mr Goodwin said that any order imposing a fine upon the First and Second Respondent, along with any costs, should be made as a 'joint and several order'.

Sanction

116. The Tribunal first had regard to the observation of Sir Thomas Bingham MR (as he then was) in Bolton v Law Society [1994] 1 WLR 512 that the fundamental purpose of sanctions against solicitors was:

"to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth".

117. The Tribunal referred to its Guidance Note on Sanctions (8th Edition) when considering sanction. The Tribunal was mindful of the three stages it should follow 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.
118. The Tribunal would be mindful that it was considering sanction on two Respondents who differed in role and responsibility within the Firm and that it was likely that it would be appropriate to make a distinction between the two on this basis in reaching its final decision on sanction.
119. The Second Respondent had day-to-day conduct of the matters and was primarily responsible for communications with clients. The Second Respondent undertook that work, as a trainee solicitor prior to her admission in October 2013 and as a qualified but junior solicitor thereafter, under the supervision and direction of the First Respondent.
120. The First Respondent was responsible for the supervision and direction of the Second Respondent and for the Firm's compliance with its obligations, both as the manager of the Firm and as its COLP, COFA and MLRO. Furthermore, the First Respondent directly approved and gave instructions for the payment of monies out of the proceeds of sale, including the monies paid to the Companies, at the request of the Second Respondent.

121. The Tribunal first assessed the seriousness of the misconduct by considering the level of the Respondents' culpability and the harm caused, together with any aggravating or mitigating factors.
122. In assessing culpability, the Tribunal found that the First and Second Respondents' motivation was to maintain a regular throughput of work to keep the Firm going.
123. The First and Second Respondents' actions were not spontaneous. Their dealings with SP, and the clients in these transactions had become routine, endemic, and repeated over and over to the extent that the misconduct found by the Tribunal to have taken place had become a matter of routine.
124. The First and Second Respondent had breached the trust of clients made vulnerable by a combination of ill-health, poor education, and desperation for quick money. Such clients had relied upon the First and Second Respondent to provide them with sound advice in circumstances where many were giving up their most valuable asset, their home.
125. In some cases their clients had received little or none of the money they had expected to receive due to redemption of a mortgage and the payments to third-party companies; the former payments may have been understandable but the latter occurred in circumstances which even the First and Second Respondent did not fully understand.
126. The Tribunal considered that the First and Second Respondent had had direct control and responsibility for the circumstances giving rise to the misconduct. The First Respondent had greater control than the Second as she was the Firm's COLP, COFA and MLRO and had been in supervisory position with respect to the Second Respondent.
127. The First Respondent had been a solicitor since 2000 and she had had sufficient experience to understand the nature of her conduct and the consequences which flowed from them. The First Respondent had failed to carry out effectively her roles as COLP, COFA and MLRO.
128. The Second Respondent qualified in 2013 and should have had the rules fresh in her mind, she also had plenty of pre-qualification experience so could not be considered to have been in the same situation as a younger, newly qualified solicitor. However, a solicitor of any level of experience would know that failing to provide a client with appropriate advice in a conveyancing transaction was wrong.
129. The Tribunal did not consider that the First and Second Respondent had misled the Regulator. Both Respondents had co-operated fully and in a meaningful way which had assisted the Regulator.
130. Overall, the Tribunal assessed the First Respondent's culpability as very high and the Second Respondent's culpability as high, taking into account all the factors it had considered with respect to both Respondents.

131. The Tribunal next considered the issue of harm. There was evidence of direct harm to their clients one of whom claimed he had been '*ripped off*' and a letter from Citizens Advice raising significant concerns. The Respondents' clients experienced financial loss, the loss of their homes and personal stress and anxiety which could have been avoided had the Respondents taken greater care to provide their clients with validly reasoned advice and not to hand over responsibility to SP.
132. The consequential damage to the reputation of the profession by the First and Second Respondents misconduct, as found by the Tribunal, was significant as the public would trust a solicitor to provide them with clear and sound advice with respect to sale of homes and the First and Second Respondents' conduct in this regard was a significant departure from the complete integrity, probity and trustworthiness expected of solicitors.
133. The extent of the harm, although not intended by either Respondent, was reasonably and entirely foreseeable by the First and Second Respondent.
134. The Tribunal assessed the harm caused as very high with respect to the First Respondent, the COLP, COFA and MLRO of the Firm and in a supervisory capacity over the Second Respondent.
135. The Tribunal assessed the harm caused as high with respect to the Second Respondent who had been in a more junior position than First Respondent but had been in regular telephone contact with the clients and had day to day conduct of the matters.
136. The Tribunal then considered aggravating factors. The Tribunal, in its finding of fact, had not found that the First and Second Respondent had acted dishonestly, and they had not been made the subject of a criminal prosecution.
137. Whilst the First and Second Respondents' actions had not been deliberately planned and calculated they had, through a reckless lack of care, facilitated others to take advantage of vulnerable people. This had been repeated over a period of about 4 years and the extent of the harm was spread across multiple clients.
138. There had been no concealment of wrongdoing and no evidence whatsoever that the misconduct had been motivated or demonstrated by hostility based on any protected or personal characteristics of a person. The Respondents had not sought to blame anyone else other than SP.
139. The First and Second Respondent ought reasonably to have known that their conduct was in material breach of their obligations to protect the public and the reputation of the legal profession.
140. Neither the First nor the Second Respondent had any previous disciplinary findings recorded against them and both had had a hitherto unblemished career.
141. With respect to mitigating factors, the Respondents may have been deceived by a third party but they should not and would not have been deceived had they made the very basic checks they had been required to make. A simple internet search would have

revealed the history of RB and SC and made the First and Second question their involvement with them.

142. There was no evidence that the Respondents had made good the loss and they had not voluntarily reported the circumstances giving rise to the misconduct to the Regulator. The misconduct had not been a single episode or of brief duration but had persisted for about 4 years.
143. However, the Tribunal considered that the First and Second Respondent had demonstrated genuine insight and they had made proper admissions. The first and Second Respondent had always contested that they had been dishonest, and, indeed, dishonesty had not been found proved to the requisite standard by the Tribunal.
144. Both Respondents accepted that with the benefit of hindsight that they had not acted appropriately and made open and frank admissions to the allegations save for lack of integrity, dishonesty and recklessness.
145. The First and Second Respondent had co-operated fully with the Applicant's investigation.
146. In all the circumstances of this case the Tribunal considered the seriousness of the misconduct to be very high although for the reasons set out above the First Respondent's culpability was greater than that of the Second Respondent. This was an inevitable conclusion given the Tribunal's findings of lack of integrity and recklessness in this case with respect to the First and Second Respondent.
147. The Tribunal considered that given the serious nature of the First and Second Respondents' misconduct, sanctions of No Order or a Reprimand or a financial penalty, even with a Restriction Order, were inappropriate and insufficient as the protection of the public justified a more stringent penalty.
148. In this case the First and Respondent had effectively and repeatedly '*rubber -stamped*' transactions without the required rigour and attention to detail which these transactions had required.
149. Payments were made to third-parties by the First and Second Respondent in circumstances where even the First and Second Respondent did not understand the basis of such payments, and where their clients, many of whom had been vulnerable people, having given up their homes, in the expectation of receiving funds from the sale, received significantly less than they expected and in some cases nothing at all.
150. In some cases, the receipt of no funds from the sale may have been explained by the redemption of mortgages however it was clear that the theme running through the transactions was the paucity of robust and critical advice which their clients had deserved and expected from the First and Second Respondents.
151. If such advice had been given at the appropriate time clients may have chosen not to continue with their particular transaction. The solicitor must act as a gate-keeper and this may sometimes involve providing strong advice not to do something in circumstances where the client may be pursuing a course which would result in

disadvantaging themselves. When such advice is given it must be clearly recorded in an attendance note for future reference, and confirmed to the client in writing.

152. The Tribunal gave very careful consideration to all the circumstances in the case which were to be weighed in the balance against the personal mitigation put forward on behalf of the First and Second Respondent and the positive testimonials which spoke to their good qualities as a people and as solicitors.
153. Whilst the information contained within the references was at variance with the facts of the allegations, as found proved by the Tribunal, it was accepted by the Tribunal that character evidence revealed the First and Second Respondent to be caring people, both with a social conscience and previously unblemished careers.
154. The Tribunal had listened carefully to Mr Goodwin's submissions regarding a just and proportionate sanction and considered that neither the protection of the public nor the protection of the reputation of the legal profession justified striking off the Roll in this case.
155. However, having made findings of lack of integrity and recklessness this case was so serious that the protection of the public and the reputation of the profession demanded a fixed term of suspension of 24 months' duration in the case of the First Respondent and a fixed term of suspension of 18 months' duration in the case of the Second Respondent.
156. The duration of the suspension period with respect to each Respondent was the minimum period required to reflect the relative culpability of each Respondent and their roles and responsibilities during the relevant time.
157. Further, in order to protect the public from future harm the Tribunal considered that the First and Second Respondent should be made subject to Restriction Orders for an indefinite period in the terms set out below.
158. Neither the First nor Second Respondent be permitted to:
 - Practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body; or as a freelance solicitor; or as a solicitor in an unregulated organisation;
 - be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body;
 - be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration;
 - hold client money;
 - be a signatory on any client account;

- work as a solicitor other than in employment approved by the Solicitors Regulation Authority;
- there be liberty to apply.

159. The Tribunal was satisfied that the combination of fixed term Suspension Orders and indefinite Restriction Orders would be sufficient to mark the seriousness of the misconduct and provide adequate protection to the public from the risk of future harm from the First and Second Respondent and provide the First and Second Respondent with a period of reflection.
160. The Tribunal accepted that the First and Second Respondent had learnt a harsh lesson but there was more for them to do in order to improve their practice and in time it was hoped they would make a good contribution to the profession and the public.

Costs

161. Mr Goodwin submitted that the Applicant had not been wholly successful in its case against the First and Second Respondent with the allegations of dishonesty, representing ‘the poison in the case’ having been removed by the findings of the Tribunal that the Applicant had not proved this aspect of the case to the requisite standard. Therefore, on this basis the Tribunal should reduce the costs claimed by the Applicant.
162. Mr Goodwin said that the Applicant’s claim for costs was in any event excessive in which the Applicant had assembled a team of 5 lawyers and had instructed counsel to draft the Rule 12 Statement in circumstances which had not merited such a deployment of resources.
163. With respect to drafting counsel it was unclear why this was thought necessary when it essentially replicated the investigators’ report. Indeed, Mr Goodwin questioned the necessity of two investigative reports and he observed that it was odd that the second report was more expensive than the first, £25, 737.20 as opposed to £21,916.10. This, to his mind, pointed to duplication of work.
164. The Applicant’s schedule of costs dated 14 June 2021 provided no hourly rate or detailed breakdown of the work carried out by the Applicant and nothing upon which the Tribunal could make a sensible assessment of the costs.
165. By way of example, Mr Goodwin said that it was of concern that a paralegal had claimed a large number of hours of work and he questioned whether this had been strictly necessary in a case of this nature in which had been a large team of lawyers, including partners in Capsticks. This too pointed towards an element of duplication of work. In contrast, Mr Goodwin said he had been instructed at a late stage in proceedings but had worked alone to ensure his clients’ cases were ready for the substantive hearing.

166. Mr Goodwin said that any claim for costs had to be reasonable and proportionate and the claim for costs presented to the Tribunal by the Applicant was neither reasonable nor proportionate and that accordingly the Tribunal should reduce the costs sought by the Applicant to something in the region of £40,000.00
167. Ms Bruce stated the quantum of costs claimed by the Applicant was in the sum of £90,422.80 inclusive of VAT. This represented the total of the fixed fee costs claimed by Capsticks of £34,500 and investigative costs at £49,022.80.
168. Ms Bruce submitted that the claimed costs were not excessive but were reasonable and proportionate given this was a relatively complex investigation which had involved two Respondents and voluminous paperwork and as the Applicant had proved the vast majority of its case to the required standard it was entitled to its proper costs as a matter of principle.
169. The central features of the case had been dishonesty, recklessness and lack of integrity and it had been very important for the Applicant to have thoroughly prepared its case in the investigatory stage and presented it with similar thoroughness. There had been considerable amount of documents to consider at all stages of the case and documents which formed the evidence of the exemplified cases formed only a part of the total number of documents which had had to be considered as a whole. What had been presented to the Tribunal in the hearing had been the 'tip of the iceberg' and the work required to bring the case to the Tribunal had been necessary and proportionate to the level of seriousness and difficulty the case had presented.
170. Whilst dishonesty was ultimately found not to be proved to the requisite standard the Applicant had rightly pursued this allegation in the public interest and the Tribunal's findings with respect to recklessness and lack of integrity signified the seriousness of the investigated conduct.
171. Ms Bruce said that there was no overlapping of work in the preparatory stage and she had had to read in and prepare for a 5 day listed substantive hearing which had required her assimilating the information held in 5 lever arch files.
172. Ms Bruce said that the Tribunal could be confident that the appropriate work was carried out at the appropriate level of fee earner as the Capsticks' costs model was built around efficiency and by having the majority of the work carried out at the lowest level wherever this was possible, therefore, much work was conducted by a paralegal under qualified supervision.
173. The nominal hourly rate equated to about £144.58 per hour which, for a case of this nature, was reasonable. The fees incurred by the instruction of counsel to draft the Rule 12 Statement would be absorbed by Capsticks in the fixed fee.
174. This case had been listed for 5 days and it had been prepared on this basis, however, Ms Bruce conceded that in the event the hearing lasted only 3 days and that it would be appropriate for the Tribunal to make some reduction to the costs to take this into account.

The Tribunal's Decision on Costs

175. The Tribunal had heard the case and it was appropriate for the Tribunal to determine the liability for costs and the quantum of any costs it ordered to be paid.
176. Having listened with care to the submissions made by Mr Goodwin and Ms Bruce with respect to costs and the Tribunal considered that it was in a position to summarily assess costs to determine whether they were reasonable and proportionate in all the circumstances of this case.
177. The Tribunal considered that the case had been properly brought by the Applicant, however, it considered that the Applicant's investigative costs were disproportionately high as it was not clear why the second investigative report had been more costly than the first when it appeared that the second inspection was limited to consideration of documentation disclosed to the SRA by Firm B, solicitors acting for the Firm's insurers, and seven of the Firm's client files and that much more had been covered in the first investigation.
178. However, the other work and hours claimed by the Applicant appeared on the whole to be proportionate and reasonable.
179. The case had raised serious issues, including dishonesty and the public would expect the Applicant to prepare its case with requisite thoroughness and it had quite properly discharged its duty to the public and the Tribunal in this regard. Nevertheless, dishonesty, the most serious allegation a solicitor may face in regulatory proceedings, had not been proved to the requisite standard by the Applicant and a hearing listed for 5 days had been determined in 3 days.
180. With these observations in mind the Tribunal considered that whilst it was appropriate for the Applicant to recover a proportion of its costs it assessed that, taking into account all the material circumstances, it was reasonable and proportionate for the First and Second Respondent to pay the costs of and incidental to this application and enquiry in the sum of £ 60,000.00, to be paid on a joint and several basis.

Statement of Full Order

First Respondent

1. The Tribunal Ordered that the Respondent, MEENA KUMARI, solicitor, be suspended from practice as a solicitor for the period of 24 months to commence on the 23rd day of June 2021 and it further Ordered that she do pay the costs of and incidental to this application and enquiry on a joint and several basis with the Second Respondent fixed in the sum of £60,000.00.
2. Upon the expiry of the fixed term of suspension referred to above, the Respondent shall be subject to conditions imposed by the Tribunal as follows:
 - 2.1 the Respondent may not:

- 2.1.1 practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body; or as a freelance solicitor; or as a solicitor in an unregulated organisation;
 - 2.1.2 be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body;
 - 2.1.3 be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration;
 - 2.1.4 hold client money;
 - 2.1.5 be a signatory on any client account;
 - 2.1.6 work as a solicitor other than in employment approved by the Solicitors Regulation Authority.
3. There be liberty to either party to apply to the Tribunal to vary the conditions set out at paragraph 2 above

Second Respondent

1. The Tribunal Ordered that the Respondent, TEENA BANGA, solicitor, be suspended from practice as a solicitor for the period of 18 months to commence on the 23rd day of June 2021 and it further Ordered that she do pay the costs of and incidental to this application and enquiry to be paid on a joint and several basis with the First Respondent fixed in the sum of £60,000.00.
2. Upon the expiry of the fixed term of suspension referred to above, the Respondent shall be subject to conditions imposed by the Tribunal as follows:
 - 2.1 the Respondent may not:
 - 2.1.1 practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body; or as a freelance solicitor; or as a solicitor in an unregulated organisation;
 - 2.1.2 be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body;
 - 2.1.3 be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration;
 - 2.1.4 hold client money;
 - 2.1.5 be a signatory on any client account;

2.1.6 work as a solicitor other than in employment approved by the Solicitors Regulation Authority.

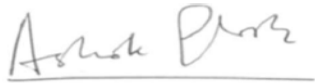
3. There be liberty to either party to apply to the Tribunal to vary the conditions set out at paragraph 2 above

Dated this 17TH day of August 2021

On behalf of the Tribunal

JUDGMENT FILED WITH THE LAW SOCIETY

17 AUG 2021

A handwritten signature in black ink, appearing to read 'A Ghosh', written over a horizontal line.

A Ghosh
Chair