SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12205-2021

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

FEMIDA JAMALI Respondent

Before:

Mrs C Evans (in the chair)
Mr R Nicholas
Mrs L McMahon-Hathway

Date of Hearing:
11 October 2021

Appearances

Michael Collis, barrister of Capsticks LLP, 1 St George's Road, London SW19 4DR for the Applicant.

The Respondent did not attend and was not represented.

JUDGMENT

Allegations (as amended)

1. The Allegations against the Respondent, were that, while in practice as a solicitor at Slater and Gordon UK Limited ('the Firm'):

Allegation 1 - Client A:

1.1 On or about 9 December 2016 and thereafter, she misled and/or failed adequately to advise Client A by:

1.1.1 Failing, in a timely manner or at all, to advise him that his claim had been struck out;

1.1.2 Advising him that his claim was ongoing when she knew or ought to have known that it had already been struck out;

1.1.3 Perpetuating his belief that his claim remained active when she knew or ought to have known this was not the case as his claims had already been struck out; and/or;

1.1.4 Advising him that an application to reinstate/relist his claim had been made or was going to be made, when she had not made any application and knew or ought to have known that no such application had been commenced and thereby:

breached Principles 2, 4, 5 and/or 6 of the SRA Principles 2011 and; failed to achieve any or all of Outcomes (1.1), (1.2), (1.5) and (1.12) of the SRA Code of Conduct 2011.

Allegation 2 – Clients B and C

1.2. On or about 11 July 2016 and thereafter, she misled and/or failed adequately to advise Clients B and C by:

1.2.1 Failing, in a timely manner or at all, to advise them that their claim had been struck out;

1.2.2 Advising them that their claims were ongoing when she knew or ought to have known that they had already been struck out;

1.2.3 Perpetuating their belief that their claim remained active by telling them that their claims had been 'adjourned' when she knew or ought to have known this was not the case as their claims had already been struck out; and/or

1.2.4 Advising them that an application to reinstate/relist their claims had been made or were going to be made, when she had not made any application and knew or ought to have known that no such application had been commenced and thereby:

breached Principles 2, 4, 5 and/or 6 of the SRA Principles 2011 and; failed to achieve any or all of Outcomes (1.1), (1.2), (1.5) and (1.12) of the SRA Code of Conduct 2011.

Allegation 3 – Clients D and E

1.3 On or about 7 November 2016 and thereafter, she misled and/or failed adequately to advise Clients D and E by:

1.3.1 Failing, in a timely manner or at all, to advise them that their claim had been struck out;

1.3.2 Perpetuating their belief that their claim remained active by requesting documents when she knew or ought to have known that their claims had already been struck out and thereby:

breached Principles 2, 4, 5 and/or 6 of the SRA Principles 2011 and; failed to achieve any or all of Outcomes (1.1), (1.2), (1.5) and (1.12) of the SRA Code of Conduct 2011.

Allegation 1.4 – Client F

1.4 On or about 1 March 2016 and thereafter, she misled and/or failed to adequately advise Client F by:

1.4.1 Failing, in a timely manner or at all, to advise her that her claim had been struck out;

1.4.2 Indicating that her claim was ongoing when she knew or ought to have known that it had already been struck out;

1.4.3 Perpetuating her belief that their claim remained active by telling her that her claim did not have 'reasonable prospects of success' when she knew or ought to have known this was not the case as her claim had already been struck out; and/or

1.4.4 Failing to inform Client F in a timely manner that she had applied to remove the Firm from the Court record and thereby:

breached Principles 2, 4, 5 and/or 6 of the SRA Principles 2011 and; failed to achieve any or all of Outcomes (1.1), (1.2), (1.5) and (1.12) of the SRA Code of Conduct 2011.

Allegation 1.5 – Clients G and H

1.5 On or about 20 June 2016 and thereafter, she misled and/or failed adequately to advise Clients G and H by:

1.5.1 Failing, in a timely manner or at all, to advise them that their claim had been issued out of time;

1.5.2 Advising them that their claims were ongoing when she knew or ought to have known that they had effectively been statute barred and a further application was required;

1.5.3 Perpetuating their belief that their claim remained active by telling them that she was reviewing their file and thereby:

breached Principles 2, 4, 5 and/or 6 of the SRA Principles 2011 and; failed to achieve any or all of Outcomes (1.1), (1.2), (1.5) and (1.12) of the SRA Code of Conduct 2011.

2. Dishonesty was expressly alleged in relation to Allegations 1.1-1.5, but proof of dishonesty was not necessary in order to establish those Allegations or any of their particulars.

3. Further or alternatively, recklessness was expressly alleged in relation to Allegations 1.2-1.5 but proof of recklessness was not necessary in order to establish those Allegations or any of their particulars.

Preliminary Matters

Application to proceed in absence

4. The Respondent did not attend and was not represented. She had not applied for an adjournment of the hearing. Mr Collis applied to proceed in her absence.

5. Mr Collis took the Tribunal through the procedural history of the case and submitted that she had been properly served with the proceedings and was aware of the hearing date. He referred the Tribunal to the Memorandum of a non-compliance hearing that had taken place on 9 July 2021. The Respondent had attended this hearing, indeed that was her only engagement with the proceedings. On that occasion she had been directed to provide an up to date email and postal address as she had stated that she had not received the papers at that stage. The Respondent had complied with that direction and the papers had been re-served. All correspondence since then had been sent to the addresses provided and had been signed for. At that hearing the Respondent had been personally told of the hearing date by the Deputy Clerk.

6. In response to a query from the Tribunal, Mr Collis confirmed that the Applicant did not have a telephone number for the Respondent.

7. Mr Collis submitted that nothing would be achieved by not proceeding in her absence in view of her lack of engagement or compliance and that the appropriate course was to proceed in her absence.

The Tribunal's Decision

8. The Tribunal considered the representations made by the Applicant. The Respondent was aware of the date of the hearing and SDPR Rule 36 was therefore engaged. The Tribunal had regard to the criteria for exercising the discretion to proceed in absence as set out in R v Hayward, Jones and Purvis [2001] QB 862, CA by Rose LJ at paragraph 22 (5) which states:

> "In exercising that discretion, fairness to the defence is of prime importance but fairness to the prosecution must also be taken into account. The judge must have regard to all the circumstances of the case including, in particular:
>
> (i) the nature and circumstances of the defendant's behaviour in absenting himself from the trial or disrupting it, as the case may be and, in particular, whether his behaviour was deliberate, voluntary and such as plainly waived his right to appear;
> (ii) …;
> (iii) the likely length of such an adjournment;
> (iv) whether the defendant, though absent, is, or wishes to be, legally represented at the trial or has, by his conduct, waived his right to representation;
> (v) …;
> (vi) the extent of the disadvantage to the defendant in not being able to give his account of events, having regard to the nature of the evidence against him;
> (vii) …;
> (viii) …;
> (ix) the general public interest and the particular interest of victims and witnesses that a trial should take place within a reasonable time of the events to which it relates;
> (x) the effect of delay on the memories of witnesses;
> (xi) …;"

9. In GMC v Adeogba [2016] EWCA Civ 162, Leveson P noted that in respect of regulatory proceedings there was a need for fairness to the regulator as well as a Respondent. At [19] he stated:

> "…It would run entirely counter to the protection, promotion and maintenance of the health and safety of the public if a practitioner could effectively frustrate the process and challenge a refusal to adjourn when that practitioner had deliberately failed to engage with the process. The consequential cost and delay to other cases is real. Where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed".

10. Leveson P went on to state at [23] that discretion must be exercised "having regard to all the circumstances of which the Panel is aware with fairness to the practitioner being a prime consideration but fairness to the GMC and the interests of the public also taken into account".

11. The Tribunal noted that the Respondent, having attended the non-compliance hearing on 9 July 2021, had absented herself from the following Case Management Hearing on 16 September 2021 and apart from providing her email and postal address, had not communicated with the Tribunal or the Applicant despite several invitations and obligations to do so.

12. The Deputy Clerk had made the Respondent aware of the date of the substantive hearing and had asked her to contact the Tribunal if she had any further difficulties receiving papers. No such contact had been made and so the Tribunal was satisfied that all correspondence had reached her. The postal correspondence had been signed for and this was further evidence that the Respondent had received it. The Tribunal was satisfied that the Respondent had voluntarily disengaged from proceedings and had chosen not to attend. There was therefore no benefit to adjourning the matter as there was no realistic prospect of her attendance at any future hearing.

13. The Allegations were serious and there was a public interest in the matter proceeding. There was no basis on which to adjourn the matter and so the Tribunal granted the application to proceed in absence.

Application to amend the Rule 12 statement

14. Mr Collis applied to amend the date pleaded in Allegation 1.4 to read 1 March 2017 instead of 1 March 2016. Mr Collis told the Tribunal that this had been a typographical error and noted that the body of the Rule 12 statement and all of the evidence made clear that 1 March 2017 was the correct date and so there was no prejudice to the Respondent. The Respondent had not been working for the firm in March 2016.

15. The Tribunal was satisfied that the Respondent was not prejudiced by the amendment as the previous date referred to a date when she was not working at the firm and the evidence in the case made plain the nature and timescale of the allegation. The Tribunal therefore granted the application.

Factual Background

16. The Respondent was admitted to the Roll on 15 April 2008 and by the time of the hearing the Respondent did not hold a current Practising Certificate. From 3 May 2016 until 25 October 2017, the Respondent was employed as a solicitor of the firm at an office in Manchester. The Respondent was employed to undertake personal injury work.

17. On 16 November 2017, the Firm referred the Respondent's conduct to the SRA in relation to the 8 client files identified, following her dismissal from the firm on 25 October 2017.

Allegation 1.1

18. The Firm acted for Client A who was involved in a road traffic collision. The proceedings were issued on 16 November 2015 and in September 2016, the Respondent became the fee-earner with conduct of the matter. On 26 October 2016, the Court listed the case for a trial on 9 December 2016, allocated the claim to the Small Claims track, and directed that all evidence be filed 14 days before the hearing. On 2 November 2016, the Respondent sent a letter to the court asking the court to allocate the matter to the Fast Track and provide fast track directions

19. On 9 December 2016 the matter was struck out. The Applicant's case was that there was no evidence of the Respondent, notifying Client A of this. The Respondent did not apply to reinstate the proceedings.

20. On 21 December 2016, notwithstanding the 9 December 2016 strike-out, the court revoked an earlier order dated 26 October 2016 and allocated the claim to the fast track, listing the claim for trial on 25 May 2017. The Order dated 21 December 2016 was considered by a Judge on 2 December 2016 before the strike-out on 9 December 2016. On 23 December 2016, the Second Defendant requested that the court confirm that the matter was struck out. On 28 December 2016 and 4 January 2017, a colleague of the Respondent wrote to Client A, advising that the court had set a timetable of steps, informing him of the trial date, and advising that "BNH" had been instructed to take a statement from him. There was no reference to the strike-out.

21. On 17 February 2017 the defendant's solicitor emailed the Respondent's colleague and stated: "I note that you are ignoring my previous emails stating that there is no claim to be pursued. You are fully aware that this matter went to a full hearing and that the recent order would have been sent in error. I am waiting confirmation from the court that this matter is struck out as per the judgment."

22. The colleague responded to the defendant's solicitor and copied in the Respondent, stating: "As you are aware, this matter was listed as a small claims matter. This was done in error as indicated by the subsequent Court order which ordered for the hearing which took place to be vacated and for the matter to be correctly allocated to the fast track. This hearing should not have taken place. We are simply attempting to progress matters and act in the best interest of our client. Until we receive written confirmation or an order from the Court that the Claim remains struck out, we have to continue to do so." On 7 March 2017, the Court issued an order in response to the Second Defendant's request for confirmation that the matter remained struck out by confirming that the matter was struck out.

23. Client A called the Firm numerous times in May 2017 concerning what he understood to be his forthcoming hearing. On 19 May 2017, the Respondent wrote to Client A and stated: "As you know the case was listed for a final hearing on the 23/05/2017. Unfortunately, due to a technicality, the hearing has been removed from the list which means it will not proceed on the 23 May 2017. We are now making an Application to the Court to rectify this and I will keep you informed in respect of the outcome of this."

24. On 4 July 2017, Client A called the Firm, seeking an update, expressing dissatisfaction with the way the case has been handled. On 11 July 2017, the Respondent emailed Client A and stated:

> "The strike out of your claim occurred through no fault of yours and was an error by the Court. The matter had been placed on the wrong case management track and when we attempted to ask the Court to place the matter on the right track, the Judge disagreed. We will now be making another attempt to ask the Court to reinstate your case and place it on the correct track."

25. The Respondent's team leader took conduct of the file on 12 October 2017. On 6 November 2017, the Firm sought Counsel's advice on the prospect of success of an application to reinstate the matter and was advised that Client A may have had a strong case for the order of 9 December 2016 to be revoked had he made his application promptly.

Allegation 1.2

26. The Firm was instructed by Clients B and C to pursue a claim on their behalf following a Road Traffic Accident on 12 November 2013 and the Respondent took over conduct of the claim in May 2016.

27. The Respondent wrote to Client B and C, notifying them that a trial date had been listed for trial 5 July 2016. On 28 June 2016, the Respondent agreed to the defendant solicitor's request to vacate the trial. On the same day, the Respondent sent the defendant's solicitor a signed consent order, consenting to the 5 July 2016 trial date being vacated. On 11 July 2016 a Court order detailing the Judge's decision on 5 July 2016 was issued, which stated that upon the non-attendance of any party, the claim and defence had been struck out.

28. On 19 July 2016, the defendant's solicitor telephoned the Firm, to find out what Client B and C's next steps were following the strike out of their claim. On 15 September 2016, the Respondent wrote to Clients B and C stating that: "As you know your claim was listed for a hearing in June 2016 but had to be adjourned. We are asking the court to relist the matter for another hearing and there are procedural steps we must take to do this I will update you upon receipt of further information from the Court."

29. On 30 September 2016, the Respondent created an entry on the case management system which stated 'need to reinstate case'. On 9 November 2016, the Respondent wrote to Client B and C stating; "I write further to the above matter and write by way of an update. As you know your claim was listed for a hearing in July and we had to consent to vacate the hearing as the third party solicitors wanted to make a last minute application to obtain your medical records. As the matter was agreed between both parties, we did not deem it necessary to incur further expense and attend court. However, the Court did not receive the agreement in time and accordingly struck out this case. This now means that we have to ask the court to reinstate your case. We are in the process of doing this and we will keep you updated in respect of further progress."

30. The Applicant's case was that there was no evidence of any such application having been made.

Allegation 1.3

31. In August 2014, Clients D and E had instructed the Firm to represent them in a claim for a road traffic accident which occurred in 2013. Proceedings were issued on 24 February 2016 in respect of Client D and on 22 March 2016 in respect of Client E. The claims were consolidated by the Court in July 2016.

32. On 11 August 2016, the court listed the claim for trial on 16 December 2016.

33. On 12 August 2016 the Defendant solicitor wrote to the Respondent and advised that they had not received the forms of authority or a request for an extension of time. They advised that if they did not receive these by 19 August 2016, they would apply to the court for an unless order. There was correspondence between the Respondent and the clients but on 18 August 2016, the defendant solicitors wrote to the Respondent advising that they would be applying to have the claims struck out. This was duly made on 30 August 2016.

34. On 4 October 2016, the Respondent was sent a notice of hearing stating that the Defendant's application to strike out had been listed for 24 October 2016.

35. On 24 October 2016 a consent order was agreed in which the Claimants were granted an extension of time, to 7 November 2016, to serve the List of Documents and that failure to serve the documents by 7 November 2016 would result in the matter being struck out without further order.

36. The 7 November deadline passed. Client D emailed the Respondent on 8 November and 10 November 2016 asking for confirmation that she had received the documents sent to her on 19 October. On 15 November 2016 the Respondent emailed Client D and stated "I have not received the signed Disclosure List from you, either by post or email. The Defendants have now asked the Court to strike out this claim as they have been chasing this document since July. Can you email this to me today urgently?" By this point the claim had been struck out on 7 November.

37. On 17 November 2016, the defendant's solicitor wrote to the Respondent and stated "Further to our telephone conversation with Femida on 15 November 2016 we note you have not served the signed list of documents on us in accordance with the consent order signed. In line with the order of DJ Gordon we consider this claim stands struck out. We confirm we have notified the Court accordingly".

38. On 25 November 2016 the matter was considered by a Judge and within an order dated 5 December 2016 it was noted that "Upon reading as letter to the Court dated 17th November 2016 from the Defendant advising the claimant has failed to comply with paragraph 1 of the order dated 24th October 2016 and by virtue of the same the claim stands struck out". A copy of the order was on the client file.

39. On 5 December 2016, the Respondent had recorded on the file that she had received a call from Client E and noted that "TCI FROM CLIENT. I adv I have been chasing the LOD since July. I have rang him and his daughter and neither have returned it to me. I need this urgently. Asked client again to email me and NOT post it".

40. On 17 February 2017, the Respondent had recorded on the file that Client E had called and noted 'UPDATED RE APP TO REINSTATE'. There was no evidence that the Respondent made an application to reinstate or what Client E had been told about the position regarding his claim.

41. On 24 April 2017 the Respondent wrote to Client E and stated that: "We did not receive your signed documents until the 3rd December 2016. By this time the matter has been struck out. This means that you can no longer proceed with your claim and the Defendants are entitled to pursue you for their legal costs of this claim. Ordinarily our

next course of action would be to make an application to request the Court to reinstate the matter". Client D was similarly advised the following day. No application for reinstatement was made.

Allegation 1.4

42. The Firm was instructed by Client F in respect of a road traffic accident. On 5 April 2016, the Firm confirmed that proceedings had been issued on behalf of Client F.

43. On 28 April 2016, the defendant's solicitors applied for an order that Client F's claim be dismissed, on the basis of non-response to the notice to serve and absence of service of medical evidence. The Respondent took over conduct of the matter on 9 May 2016. On 19 May 2016 the Respondent wrote to Client F to notify her that her file had been transferred to her and requesting that Client F contact her to discuss concerns raised by Client F's insurer.

44. On 31 May 2016, the court issued an order notifying the parties that the defendant's application for the claim to be dismissed would take place on 6 July 2016.

45. On 6 July 2016, the court approved a consent order under which the defendant's application for strike out would be withdrawn, and that the hearing listed for that day be vacated, with Client F to pay the defendant's costs of the application.

46. On 25 January 2017, the defendant applied for an order that "Unless the Claimant do serve her List of Documents on the Defendant in compliance with the Court's Order of 12th December 2016, within 7 days of the date of service of this Order, her claim be struck out and the Claimant do pay the Defendants' costs of the entire action".

47. On 16 February 2017, the court ordered that Client F was to serve her list of documents by 27 February 2017 or the claim be struck out, with Client F to pay the defendant's costs. The Firm's records indicated that the Firm received the court order but it was not "merged on to the system" until 1 March 2017. There was no evidence of the Respondent then chasing Client F for the list.

48. On 23 February 2017, the Respondent wrote to Client F, stating that the Firm could not continue to act and so would close the file.

49. On 1 March 2017, the court ordered that the claim be struck out due to non-compliance with directions and that Client F was to pay the defendant's costs of the entire action. The Respondent did not notify Client F of the strike out nor the costs liability, and nor did she make an application to set aside the order. On 17 March 2017, a colleague of the Respondent applied to the Court to remove the Firm from the record, citing "a breakdown of trust and communication meaning terms of our retainer have been breached. We no longer wish to represent the Claimant on a No Win No Fee basis". There was no letter on the file informing Client F of the strike-out or the costs order.

50. On 4 April 2017, Client F telephoned the Firm and spoke to the Respondent to discuss the case. The Respondent did not mention the strike-out, the costs order or the application to come off the record.

51. On 14 September 2017, the Respondent wrote to Client F giving, on the Applicant's case, an inaccurate history of the matter. This letter did make reference to the strike-out and to the fact that the firm had applied to come off the record.

Allegation 1.5

52. Clients G and H instructed the Firm in relation to a road traffic accident. The date of limitation was 1 June 2015. The claim was issued on 16 September 2015.

53. The Respondent took over conduct of Client G's matter on 18 July 2016 and Client H's matter on 20 June 2016. The proceedings had been issued 3 months out of time for Clients G and Client H. The Firm was written to by the defendant solicitors about this on 9 June 2016, 16 June 2016 and 27 October 2015.

54. On 15 September 2016 the Respondent wrote to Client G to provide an update. That letter did not refer to the issue of the claim having been lodged out of time. On 6 December 2016 the Respondent wrote to Client H and did not refer to that issue. The issue was not raised with the clients during the remainder of the Respondent's employment at the Firm.

Findings of Fact and Law

55. The Applicant was required by Rule 5 of The Solicitors (Disciplinary Proceedings) Rules 2019 to prove the allegations to the standard applicable in civil proceedings (on 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 Respondent's rights to a fair trial and to respect for her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

56. **Allegation 1.1**

Applicant's Submissions

56.1 Mr Collis submitted that the Respondent had lacked integrity based on the test set out in Wingate v Solicitors Regulation Authority v Malins [2018] EWCA Civ 366. The Respondent had not informed Client A that his claim had been struck out until an extended period of time had elapsed. The Respondent knew or ought to have known that the claim had already been struck out but had told the client that the hearing had been vacated only due to a "technicality". The Respondent had then stated to Client A that an application to reinstate his claim would be made, but did not do so. The Respondent had also told Client A that his claim had been adjourned when she knew or ought to have known to be untrue.

56.2 Mr Collis accepted that the Respondent had not gained personally from her actions, but submitted that they had been done to "cover up the poor service she was providing to Client A".

56.3 Mr Collis submitted that the Respondent had also breached Principle 6. He submitted that users of legal services were "entitled to rely on and place their trust in the information provided to them by the supplier of those services, in this case the Respondent" and that her actions had undermined that trust. These actions on the part of the Respondent undermined the trust Client A placed in her, and more generally the public trust in the provision of legal services. Mr Collis further submitted that the Respondent's actions did not amount to acting in the client's best interests or to the provision of a proper standard of service, thereby breaching Principles 4 and 5.

56.4 In relation to dishonesty, Mr Collis relied on the test for dishonesty in Ivey v Genting Casinos [2017] UKSC 67. Mr Collis submitted that the Respondent had been dishonest in that she must have "at least suspected that the claim had been struck out on 9 December 2016 following the hearing but nonetheless continued to prepare for a separate trial date in May 2017 without taking any steps to remedy the position or confirm the position with the Court". Mr Collis submitted that the Respondent must have known or at least suspected that she was obliged to disclose the full position to Client A and failed to do so and that she had sent the email advising the client that the matter had been adjourned when she knew or suspected this to be inaccurate and misleading in that it failed to mention the strike out.

The Tribunal's Findings

56.5 The claim was struck out on 9 December 2016, but despite this the Respondent wrote to the client on 19 May 2017 and stated that the case had been "removed from the list" due to a technicality and that an application was being made to the Court to rectify this. Neither of these statements were true.

56.6 The Tribunal noted that on the same day, the Respondent had discussed the matter with a colleague in which the fact that the case had been struck out was discussed and remedial steps in the form of an application to reinstate was agreed. The attendance note recorded:

> "1. Write to client and explain situation
> 2. Make the app asap"

56.7 The Tribunal drew the inference that the letter to the client followed this conversation and noted that the letter did not reflect the true position in relation to the claim having been struck out. The letter of 19 May 2017 was misleading and failed to adequately advise the client in that it made no reference to the claim having been struck out 6 months earlier, despite the Respondent stating that she had reviewed the file "several times".

56.8 On 11 July 2017 the Respondent emailed the client and did make reference to the claim having been struck out due to "an error by the Court". The letter went on to refer to the Respondent "making another attempt" to ask the Court to reinstate the case. This, again, did not reflect the true position as no such application had been made in the first place and so reference to "another attempt" was misleading. In any event, by this time it was too late to take any remedial action.

56.9 The Tribunal was satisfied on the balance of probabilities that the Respondent had failed, in a timely manner, to advise Client A that his claim had been struck out. It was further satisfied that the correspondence, particularly that of 19 May 2017, clearly gave the misleading impression that the claim was ongoing when it had been struck out. The Respondent's state of knowledge as to the strike-out is discussed below. In doing so the Respondent perpetuated Client A's belief that the claim remained active. The Tribunal was also satisfied on the balance of probabilities that the Respondent had misled Client A by implying that an application to reinstate had been made, when it had not.

56.10 The Tribunal therefore found the factual basis of Allegation 1.1 proved in full.

Principle 2

56.11 In considering whether the Respondent had lacked integrity, the Tribunal applied the test set out in Wingate. At [100] Jackson LJ had stated:

> "Integrity connotes adherence to the ethical standards of one's own profession. That involves more than mere honesty. To take one example, a solicitor conducting negotiations or a barrister making submissions to a judge or arbitrator will take particular care not to mislead. Such a professional person is expected to be even more scrupulous about accuracy than a member of the general public in daily discourse".

56.12 The Tribunal noted that the Respondent had misled and failed to adequately advise Client A for several months that the claim had been struck out. Even when she did so, she blamed the Court for the error rather than admitting her own negligence and she further misled the client regarding the remedial steps that she purported to be taking. The Tribunal was satisfied on the balance of probabilities that the Respondent had demonstrated a clear lack of moral soundness and as such had lacked integrity and breached Principle 2. It was imperative that solicitors did not mislead their clients and the Respondent had done so on repeated occasions. The Tribunal found the breach of Principle 2 proved on the balance of probabilities.

Principles 4 and 5

56.13 It followed as a matter of logic from the Tribunal's findings that misleading a client could not be compatible with the duty to act in the client's best interests or provide a proper standard of service. It therefore found the breaches of Principles 4 and 5 proved on the balance of probabilities.

Principle 6

56.14 The trust the public placed in the profession required, as an absolute minimum, that solicitors did not mislead their clients. The Respondent did not tell her client that the claim had been struck out for 7 months and when she did she gave an untrue explanation for it having happened and untrue account of efforts being made to reinstate the claim. In those 7 months she had perpetuated his belief that the claim was still live. The Tribunal was satisfied on the balance of probabilities that the Respondent had failed to maintain the trust the public placed in her and in the provision of legal services and it found the breach of Principle 6 proved.

Outcomes 1.1, 1.2, 1.5 and 1.12

56.15 The Tribunal found on the balance of probabilities that each of these outcomes had not been achieved, on the basis of the findings set out above.

Dishonesty

56.16 The test for considering the question of dishonesty was that set out in Ivey at [74] as follows:

> "the test of dishonesty is as set out by Lord Nicholls in Royal Brunei Airlines Sdn Bhd v Tan and by Lord Hoffmann in Barlow Clowes: ….. 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 knowledgeable 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."

56.17 The Tribunal applied the test in Ivey and in doing so, when considering the issue of dishonesty adopted the following approach:

- Firstly the Tribunal established the actual state of the Respondent's knowledge or belief as to the facts, noting that the belief did not have to be reasonable, merely that it had to be genuinely held.

- Secondly, once that was established, the Tribunal then considered whether that conduct was honest or dishonest by the standards of ordinary decent people.

56.18 The Tribunal considered the Respondent's state of knowledge during the period from 9 December 2016.

56.19 The Respondent had been copied into email correspondence between the other side and her colleague on 17 February 2017 which referred to the matter having been struck out. An email from the Respondent's colleague to the other side stated "Until we receive written confirmation or an order from the Court that the Claim remains struck out, we have to continue to do so [progress matters]". Even allowing for apparently contradictory correspondence from the Court in December 2016, in which directions were made but a strike-out was also ordered, by 17 February 2017 the Respondent was at the very least aware that there was a significant possibility that the claim had been struck out. On 28 February 2017 the client was told that there was a trial date and that there was "No further update". There was a further order from the Court dated 7 March 2017 which confirmed that the matter had been struck out. Counsel was "debooked" on 8 May 2017.

56.20 The Respondent had discussed the matter with her colleague on 19 May 2017 as described above and the Tribunal found that the reference to strike out was further evidence of her knowledge that the claim had been struck out.

56.21 The Respondent had then written the letter of 19 May 2017 referred to above. The Tribunal was satisfied on the balance of probabilities that the Respondent knew that the contents of the letter were untrue. The Respondent knew that the claim had been struck out and would have known that the status of the claim had been the specific subject of correspondence between the parties. The Respondent knew that the case had not been "removed from the list" due to a "technicality".

56.22 The email of 11 July 2017 was also misleading as discussed above. The Tribunal was satisfied that the Respondent knew it was misleading as she knew that she had not prepared an application to reinstate and therefore reference to preparing "another" one knowingly gave a false impression.

56.23 The Tribunal was satisfied on the balance of probabilities that the Respondent's conduct would be considered dishonest by the standards of ordinary decent people on the basis that she had knowingly made untruthful statements to her client. The Tribunal therefore found the allegation of dishonesty proved in relation to Allegation 1.1.

57. **Allegation 1.2**

Applicant's Submissions

57.1 Mr Collis again submitted that the Respondent had breached the pleaded Principles and Outcomes and had acted dishonestly. Mr Collis' submissions in relation to the Principles and Outcomes, including the lack of integrity were in very similar terms to those in relation to Allegation 1.1.

57.2 Mr Collis' submissions on dishonestly were, again, similar those made in relation to Allegation 1.1, with the additional point that the Respondent had created an entry on the case management system on 30 September 2016 indicating that an application to reinstate needed to be made, which he submitted was inconsistent with her having a belief that the claim had been adjourned.

The Tribunal's Findings

57.3 The matter was struck out on 5 July 2016 as confirmed in an order dated 11 July 2016, but the Respondent did not notify the clients until 9 November 2016, which the Tribunal found was not timely. Prior to this, on 15 September 2016 the Respondent had written to the client stating that the matter "had to be adjourned" in June 2016 and that she was asking the Court to re-list the matter.

57.4 The Respondent's colleague had taken a telephone call on 19 July 2016 from the other side which had been recorded in an attendance note as follows:

> "Now that our client's claim and defence has been struck out he wanted to know what our next steps are. I advised I will make FEJ aware of his call and ask her to contact him".

57.5 The print-out from the case management system showed an entry on the same date that read:

> "Discussed telephone call with FEJ", followed by an entry in capital letters "CASE NEEDS TO BE REINSTATED".

57.6 The Tribunal found that by the time the Respondent wrote to the client on 15 September 2016 she would have known that the matter had not been adjourned but had been struck out. The Tribunal also found that the Respondent continued to advise that an application to reinstate was ongoing when this was not the case and the Respondent knew it was not the case as she had made no such application. This continued until March 2017.

57.7 The Tribunal therefore found the factual basis of Allegation 1.1 proved in full.

Principles 2, 4, 5 and 6 and Outcomes 1.1, 1.2, 1.5 and 1.12

57.8 The conduct that the Tribunal had found proved in respect of Allegation 1.2 was almost identical to that found proved in Allegation 1.1. In both instances the Respondent had misled clients by not disclosing the fact that their claims had been struck out for many months and had then misled them about the circumstances in which the strike-outs had occurred. The Respondent had then further misled them by telling them that steps were being taken to rectify matters, thus appearing to keep the case active, when in fact no such steps were taken.

57.9 The Tribunal therefore found on the balance of probabilities that the same breaches of Principle and failure to achieve Outcomes was engaged in relation to Allegation 1.2 as had been in relation to Allegation 1.1. The Tribunal therefore found these matters proved on the balance of probabilities in relation to Allegation 1.2.

Dishonesty

57.10 The Tribunal again applied the Ivey test and considered the Respondent's state of knowledge at the material times.

57.11 The Tribunal was not satisfied that the Respondent necessarily knew of the strike-out by 11 July 2017, but it was satisfied that she knew of it by 19 July 2017 based on the telephone call that was discussed with her that day. The Respondent would certainly have been aware of it by the time she wrote to the client on 15 September 2016. The Respondent knew the matter had not been adjourned and she knew that there was no application to reinstate. The Tribunal therefore found on the balance of probabilities that the Respondent knew that she was misleading and failing to properly advise Clients B and C.

57.12 The Tribunal was satisfied on the balance of probabilities that the Respondent's conduct would be considered dishonest by the standards of ordinary decent people on the basis that she had knowingly made untruthful statements to her client. The Tribunal therefore found the allegation of dishonesty proved in relation to Allegation 1.2.

58. **Allegation 1.3**

Applicant's Submissions

58.1 Mr Collis again submitted that the Respondent had breached the pleaded Principles and Outcomes and had acted dishonestly. Mr Collis' submissions in relation to the Principles and Outcomes, including the lack of integrity were in very similar terms to those in relation to Allegations 1.1 and 1.2.

58.2 Mr Collis' submissions on dishonestly were, again, similar those made in relation to Allegation 1.1, with the additional point that the Respondent written to Client E on 5 December 2016 and continued to chase the documents but did not inform her that the claim had been struck out which she must of known or at least suspected to be materially inaccurate and misleading in that it failed to mention, adequately or at all that the claim had been struck out.

The Tribunal's Findings

58.3 The Respondent did not tell the clients the claim had been struck out until at least 17 February 2017 when there was a telephone attendance note which stated "Updated re App to reinstate". The first letters setting this out in terms were dated 24 and 25 April 2017, some five months later. The background to the strike-out was an 'unless order' made on 24 October 2016. This provided that unless the Claimants served the signed list of documents by 7 November 2016 then the claim would be struck out. The claim was duly struck out on that date and confirmed by an order of the Court dated 5 December 2016.

58.4 The firm had received a letter from the other side dated 17 November 2016 in which they stated "In line with the order of DJ Gordon we consider this claim stands as struck out". This letter was marked "FEJ" and so clearly was for the attention of the Respondent.

58.5 On 5 December 2016 the Respondent had spoken to the client by telephone and had not mentioned that the claim had been struck out, rather she continued to ask for documents relevant to the case and to provide them "urgently". This was clearly misleading as the matter had been struck out by then.

58.6 The telephone call of 17 February 2017 made reference to an application to reinstate, which the Tribunal found to be evidence that the Respondent knew of the strike-out by that date at the very latest. That telephone call was also misleading in its reference to the application to reinstate as no such application had been made.

58.7 In the course of her internal disciplinary process, the Respondent had told her colleagues that she recalled the claim being struck out and that she checked her post most days.

58.8 The Tribunal was satisfied on the balance of probabilities that the Respondent had misled and failed to adequately advise Clients D and E in a timely manner that their claim had been struck out. The Tribunal further found that the Respondent perpetuated

their belief that the claim remained active by continuing to request documents that had been the subject of the unless order that had resulted in the strike-out in the first place.

58.9 The Tribunal therefore found the factual basis of Allegation 1.3 proved in full.

Principles 2, 4, 5 and 6 and Outcomes 1.1, 1.2, 1.5 and 1.12

58.10 The conduct that the Tribunal had found proved in respect of Allegation 1.3 was very similar to that found proved in Allegation 1.1. The Respondent had misled clients by not disclosing the fact that their claims had been struck out for many months and had continued to ask for documents as if the claim was continuing. The Respondent had, again, further misled them by telling them that an application to reinstate had been made.

58.11 The Tribunal therefore found on the balance of probabilities that the same breaches of Principle and failure to achieve Outcomes was engaged in relation to Allegation 1.2 as had been in relation to Allegations 1.1 and 1.2. the Tribunal therefore found these matters proved on the balance of probabilities in relation to Allegation 1.3.

Dishonesty

58.12 The Tribunal again applied the Ivey test and considered the Respondent's state of knowledge at the material times.

58.13 The Respondent's state of knowledge is discussed above in relation to the factual basis of the Allegation. The Tribunal noted that the Respondent checked her post almost every day. The Respondent ought to have known that the matter would have been struck out on 7 November, based on the order made on 24 October. If she did not know on that date she ought to have known by 15 November and the Tribunal found on the balance of probabilities that she did know by 5 December 2016. There could be no doubt that by the New Year she was fully aware of the position, but she took no steps to notify the clients or to remedy the situation.

58.14 The Tribunal found on the balance of probabilities that continuing to seek documents from clients in respect of a case that the Respondent knew had been struck out would be considered dishonest by the standards of ordinary decent people. The Tribunal therefore found the allegation of dishonesty proved in relation to Allegation 1.3.

59. **Allegation 1.4**

Applicant's Submissions

59.1 Mr Collis submitted that in addition to failing to notify Client F that her claim had been struck out until 27 July 2017, she had also not informed the client that she had applied to come off the court record in March 2017, until the same date.

59.2 The Respondent had also told Client F that she did not feel her claim had reasonable prospects of success when she knew or ought to have known this to be untrue as the claim had already been struck out. Mr Collis submitted that this demonstrated a lack of

integrity. Mr Collis further submitted that the remaining pleaded Principle and Outcomes had been breached by reference to the factual basis of the Allegation.

59.3 In relation to dishonesty, Mr Collis submitted the Respondent she must have at least suspected that the claim was at risk of being automatically struck out and that she had applied to come off the record.

The Tribunal's Findings

59.4 The Order striking the claim out was dated 1 March 2017. It had the initials "FEJ" written on the front of it and so the Tribunal was able to conclude that it had been sent to the Firm and marked for the attention of the Respondent.

59.5 This was followed on 17 March 2017 by an application being filed with the Court to come off the record on the basis that the terms of the retainer had been breached. There had been no indication of such a breakdown in relations prior to this. The Respondent had not informed the client that she was making such an application to the Court either prior to making it or at the time of making it. In addition, the Respondent made no reference to this when she spoke to the client on the telephone on 4 April 2017, less than three weeks after making the application to come off the record and less than a month after the claim had been struck out.

59.6 The Tribunal reviewed the letter to the client dated 2 June 2017. The letter began as follows:

> "After careful consideration following a full review of your file of papers, I have to advise that I am of the view that no reasonable prospects of recovery exist."

59.7 The Tribunal took from the reference to a full review of the file that the Respondent would have been aware of the strike out and in any event she would have been aware that she had applied to take the Firm off the record almost 3 months earlier. The letter made no reference to the strike-out or the application to come off the record. The Tribunal was satisfied on the balance of probabilities that this was a wholly misleading and untrue letter. It was misleading in that it gave the impression that the case could not be pursued due to the poor prospects of success, when in fact it could not be pursued as it had been struck out and the Firm was no longer on the record. The issue of the prospects of success was completely irrelevant at that point and so the entire basis of the letter was misleading.

59.8 The Tribunal therefore found the factual basis of Allegation 1.4 proved in full.

Principles 2, 4, 5 and 6 and Outcomes 1.1, 1.2, 1.5 and 1.12

59.9 The conduct that the Tribunal had found proved in respect of Allegation 1.4 was very similar to that found proved in Allegation 1.1-1.3. The Respondent had misled Client F by not disclosing the fact that their claims had been struck out for many months or the fact that she had applied to come off the record. The Respondent had misdirected Client F into believing that the reason for the failure of the claim related to its merits, not the Respondent's own failings.

59.10 The Tribunal therefore found on the balance of probabilities that the same breaches of Principle and failure to achieve Outcomes was engaged in relation to Allegation 1.2 as had been in relation to Allegations 1.1-1.3. The Tribunal therefore found these matters proved on the balance of probabilities in relation to Allegation 1.4.

Dishonesty

59.11 The Tribunal found that the Respondent knew that the claim had been struck out and knew that she had applied to come off the record. The Respondent therefore knew that the letter she wrote to the client on 2 June 2017 was untrue and that it totally misrepresented the position in relation to the client's case. The Tribunal reference to poor prospects was a deliberate attempt to misdirect the client as to the reality of the situation.

59.12 The Tribunal was satisfied on the balance of probabilities that this would be considered dishonest by the standards of ordinary decent people and it found the allegation of dishonesty proved in relation to Allegation 1.4.

60. **Allegation 1.5**

Applicant's Submissions

60.1 Mr Collis submitted that the Respondent's failures to inform the clients that the claim had been issued out of time had misled them and amounted to a lack of integrity. The Respondent had therefore breached Principle 2 and, as with Allegations 1.1-1.4, had breached all the pleaded Principles and Outcomes.

60.2 In relation to dishonesty, Mr Collis acknowledged that the Applicant's position was more nuanced than in relation to Allegations 1.1-1.4. Mr Collis told the Tribunal that there was no positive statement made by the Respondent that the Applicant could identify where the Respondent had been wrong and knew she was wrong. The Applicant's case was that the failure to advise was dishonest as the Respondent must have at least suspected that the claim had been lodged out of time and she must have known she was obliged to disclose the full position to the clients and had failed to do so. In turning a blind eye the Respondent had perpetuated a misleading impression.

60.3 In the alternative, Mr Collis submitted that the Respondent had been reckless in that if she did not know that the claim had been issued out of time, then she did know that the claim was not progressing but wrote to them anyway indicating that it was.

The Tribunal's Findings

60.4 The Tribunal noted that the issue with the claim had arisen before the Respondent took conduct of the case. The Respondent was under a duty to review the file properly and it was evident that she had not done so. The result was that the Respondent took over a case that already had significant problems in the way it had been handled, which had not been addressed for approximately a year prior to her taking over conduct. The result of this failure was that the advice given to the clients in various letters sent from July 2016 onwards was misleading and failed to adequately advise. The Respondent had told the clients that she was reviewing their file, which she clearly had not done adequately.

The Tribunal found that the Respondent ought to have known that the claim was defective but for the reasons set out below, it was not satisfied on the balance of probabilities that she did know this.

60.5 The distinction between this case and those that were the subject of Allegation 1.1-1.4 was that in this matter the Respondent did not receive a document from the Court that disposed of the claim, which she had in those cases. The situation was that the claim had been effectively doomed from the outset, rather than having commenced correctly and then been struck out due to failures to comply with procedure. The Respondent had not had conduct of the matter at the point when the problem with the claim arose and it was apparent from reading correspondence that the previous fee earner had proceeded on the basis that the claim was active. The Tribunal was not satisfied on the balance of probabilities that, at the time the Respondent wrote to the clients, she knew or suspected that the claim was statute barred.

60.6 The Tribunal found the factual basis of Allegation 1.5 proved on the balance of probabilities on the basis that the Respondent ought to have known that the claim had been issued out of time and was statute barred. The Respondent had perpetuated the clients' erroneous belief as a result of her own negligence but had not done so knowingly. The Tribunal also found that the Respondent had failed to achieve all the pleaded Outcomes.

Principle 2

60.7 The Tribunal found that there was a distinction between failing to advise adequately due to carelessness and negligence and deliberately misleading clients. In circumstances where the error on the case had pre-dated the Respondent's involvement by so long and where there was no evidence that she had actually been on notice of the problem, albeit due to her own failings, the Tribunal was not satisfied on the balance of probabilities that the Respondent had lacked integrity. The Tribunal therefore found the breach of Principle 2 not proved.

Principles 4, 5 and 6

60.8 The Respondent's failure to review the file was clearly inconsistent with the duty to provide a proper standard of service and the clients' best interests were not served by the fact they were not told that the claim was statue barred.

60.9 The trust the public placed in solicitors depended on basic steps being taken to protect their interests and this included properly reviewing a file upon taking it over to ensure that clients were given the appropriate advice. The Respondent had failed to do this and had therefore undermined that trust.

60.10 The Tribunal found the breaches of Principles 4, 5 and 6 proved on the balance of probabilities.

Dishonesty

60.11 The Tribunal considered the Respondent's state of knowledge, which is discussed above. The basis of the misleading advice to clients was an omission by the Respondent to review the file properly. The Tribunal could not be satisfied on the balance of probabilities that she knew the claim was statute barred and that the case was therefore not proceeding.

60.12 In those circumstances the Tribunal was not in a position to find that the Respondent's conduct would be considered dishonest by the standards of ordinary decent people. It therefore found the allegation of dishonesty not proved in relation to Allegation 1.5.

Recklessness

60.13 The Tribunal was required to consider the allegation of recklessness as an alternative to dishonesty, which had not been proved.

60.14 The Tribunal applied the test set out in R v G [2003] UKHL 50 where Lord Bingham adopted the following definition:

> "A person acts recklessly…with respect to (i) a circumstance when he is aware of a risk that it exists or will exist; (ii) a result when he is aware of a risk that it will occur and it is, in the circumstances known to him, unreasonable to take that risk."

60.15 This was adopted in the context of regulatory proceedings in Brett v SRA [2014] EWHC 2974 (Admin).

60.16 The Tribunal considered whether the Respondent perceived there was a risk that she was misleading or failing to adequately advise Clients G and H. For the reasons set out above, the Tribunal could not be satisfied on the balance of probabilities that the Respondent knew or suspected that the claim had been statute barred and so it could not find that the Respondent perceived that there was a risk that her advice was misleading. In those circumstances the Tribunal was not required to consider whether her actions were reasonable as that step was only engaged if the Respondent had perceived such a risk.

60.17 The Tribunal therefore found the allegation of recklessness not proved.

Previous Disciplinary Matters

61. There was no record of any previous disciplinary findings by the Tribunal.

Mitigation

62. The Respondent did not present any mitigation to the Tribunal.

Sanction

63. The Tribunal had regard to the Guidance Note on Sanctions (December 2020). The Tribunal assessed the seriousness of the misconduct by considering the Respondent's culpability, the level of harm caused together with any aggravating or mitigating factors.

64. In assessing culpability, the Tribunal identified the following factors:

- The Respondent's motivation appeared to have been to cover her errors and her poor level of service to clients;
- The Respondent's actions were deliberate in that she deliberately wrote the misleading letters to clients;
- The Respondent had 8 years' experience at the start of the period of misconduct;
- The Respondent had direct control over the circumstances giving rise to the misconduct as she was the fee earner with conduct of these cases.

65. In assessing the harm caused, the Tribunal identified the following factors:

- In terms of harm caused to individual clients, the Respondent had acted in a way detrimental to the claim by failing promptly to remedy or attempt to remedy the position or telling the clients about the strike-outs and costs implications; it was clear that at on at least one occasion the client may have been in a position to reinstate the claim had the application been made promptly;
- The misleading of clients inevitably harmed the reputation of the profession;
- This was not a single case but reflected a pattern of behaviour across several files.

66. The main aggravating factor was the Respondent's dishonesty. The misconduct was further aggravated by the fact that it was deliberate calculated and repeated and continued over a period of approximately 18 months on several files. The Respondent knew that she was in material breach of her obligations.

67. The Tribunal was unable to identify any mitigating factors beyond the Respondent's previously unblemished career. The Applicant had, during the hearing, referred to the fact that a number of individuals had raised issues about the working environment at the Firm. The Tribunal was unable to attach any weight to this given that the Respondent had not raised this as an issue in the proceedings, the nature of the issues raised were not set out in any detail and it was not supported by any evidence from the Respondent.

68. The misconduct was so serious that a Reprimand, Fine or Restriction Order would not be a sufficient sanction to protect the public or the reputation of the profession from future harm by the Respondent. The Tribunal noted that the usual sanction where misconduct included dishonesty would be a strike-off and the Tribunal had regard to Solicitors Regulation Authority v Sharma [2010] EWHC 2022. The circumstances in

which such a sanction was not imposed were exceptional, described in Sharma as "a small residual category where striking off will be a disproportionate sentence in all the circumstances ...".

69. In Solicitors Regulation Authority v James [2018] EWHC 3058 (Admin) at [101], Flaux LJ set out the basis of which question of exceptional circumstances was assessed:

> "First, although it is well-established that what may amount to exceptional circumstances is in no sense prescribed and depends upon the various factors and circumstances of each individual case, it is clear from the decisions in Sharma, Imran and Shaw, that the most significant factor carrying most weight and which must therefore be the primary focus in the evaluation is the nature and extent of the dishonesty, in other words the exceptional circumstances must relate in some way to the dishonesty."

70. The Tribunal considered whether the circumstances in this case were exceptional, having regard to James. The Tribunal noted that the Respondent had referred to suffering from stress, but that was in the context of the internal disciplinary proceedings and did not link directly to the misconduct itself. The Tribunal was unable to identify any exceptional circumstances and it concluded that the only appropriate sanction that would maintain the reputation of the profession and protect the public was that the Respondent be struck off the Roll.

Costs

71. Mr Collis sought an order for costs in the sum of £42,750.00. The application was supported by a costs schedule which he took the Tribunal through. Mr Collis confirmed that £34,500 of this figure was a fixed fee for the legal work. The cost schedule set out the work that had actually been done and the time spent on the case. In response to a query from the Tribunal, he confirmed that the first contact made with the Respondent by the Applicant about these matters was on 16 July 2019.

72. The Tribunal noted that the Rule 12 had contained a number of typographical errors, to the extent that an application had been necessary to amend the Rule 12 as set out above in order to correct one of them.

73. The hearing had been listed for 5 days but had concluded in less than 2 days and so there was a justifiable basis to reduce the costs to reflect that, while recognising that the Applicant had still needed to prepare for a fully contested hearing due to the lack of engagement by the Respondent. The Tribunal had found dishonesty and recklessness not proved in relation to Allegation 1.5.

74. The Tribunal also took account of the delay of almost 2 years between the Respondent being dismissed and the Applicant contacting her about these matters. There was then a delay of almost another 2 years between then and the lodging of the Rule 12 statement.

75. Taking all those factors into account, the Tribunal considered that the costs should be reduced to £36,000.

76. The Respondent had not filed any statement of means and so there was no basis to reduce the costs further. The Tribunal noted that the Applicant took a sensible and proportionate approach to enforcement of costs orders.

Statement of Full Order

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

Dated this 3rd day of November 2021
On behalf of the Tribunal

C Evans
Chair