SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12263-2021

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

RAJA SHAZAD KHAN First Respondent
COLIN ANTHONY GOLDRING Second Respondent

Before:

Mr E Nally (in the chair)
Ms A E Banks
Mr P Hurley

Dates of Hearing: 20 April 2022 and 4 May 2022

(The consideration by the Tribunal on 20 April 2022 took place on the papers and on 4 May 2022 by way of a Case Management Hearing held in private and remotely)

Appearances
On 20 April 2022
There were no appearances as the matter was dealt with on the papers.

On 4 May 2022
Rory Mulchrone, Counsel, instructed by Capsticks Solicitors LLP, 1 St George's Road, Wimbledon, London SW19 4DR on behalf of the Solicitors Regulation Authority Ltd of The Cube, 199 Wharfside Street, Birmingham B1 1RN for the Applicant

The First Respondent, Mr Raja Shazad Khan was in person and participated by telephone.

JUDGMENT ON AN AGREED OUTCOME IN RELATION TO THE FIRST RESPONDENT

Allegations

1. The allegations against the First Respondent, Raja Shazad Khan, made by the Solicitors Regulation Authority ("SRA") Ltd, are that, while in practice as a solicitor at and the sole equity owner of Justice Solicitors Ltd ("the Firm"):

Client A. Improper provision of banking facility

1.1 Between approximately June 2016 and March 2018, he caused, allowed or failed to prevent the Firm's improper provision of a banking facility to Client A (identified in Schedule 1), absent an underlying legal transaction or a service forming part of the normal regulated activities of solicitors; and he therefore breached all or any of:

1.1.1 Rule 14.5 of the SRA Accounts Rules 2011 ("the 2011 Accounts Rules");

1.1.2 Principle 6, Principle 7 and Principle 8 of the SRA Principles 2011 ("the 2011 Principles").

Payments to third parties

1.2. Between approximately June 2016 and April 2017, he caused, allowed or failed to prevent the payment, by or at the behest of the Second Respondent, of monies totalling up to €8,310,780.00 from the Firm's client account to third parties (as shown in Schedule 2), without Client A's knowledge and/or informed consent; and he therefore breached all or any of:

1.2.1. Rule 20.1 of the 2011 Accounts Rules;

1.2.2. Principle 4, Principle 5 and Principle 10 of the 2011 Principles.

Failure to supervise the Second Respondent

1.3 Between approximately June 2016 and April 2018, he failed adequately or at all to supervise the Second Respondent's conduct of one or more matters relating to Client A; and, in so failing, breached one or both of Principle 6 and Principle 8 of the 2011 Principles.

Compliance with the Accounts Rules

1.4 Between approximately August 2016 and June 2020, he failed fully to comply (or to ensure the Firm's compliance) with the 2011 Accounts Rules and/or the SRA Accounts Rules 2019 ("the 2019 Accounts Rules"), in that he failed, adequately or at all:

1.4.1. to conduct client account reconciliations at least once every 5 weeks, in breach of Rule 29.12 of the 2011 Accounts Rules (or Rule 8.3 of the 2019 Accounts Rules);

1.4.2. to keep and maintain proper and accurate accounting records, in breach of Rules 1.2(f) and/or 29.1 of the 2011 Accounts Rules (or Rule 8.1 of the 2019 Accounts Rules);

1.4.3. to return client money promptly, in breach of Rule 14.3 of the 2011 Accounts Rules (or Rule 2.5 of the 2019 Accounts Rules);

1.4.4. to remedy or correct breaches promptly upon discovery, in breach of Rules 6 and/or 7 of the 2011 Accounts Rules (or Rule 6.1 of the 2019 Accounts Rules);

1.4.5. to obtain any or adequate Accountant's Reports, in breach of Rule 32 or Rule 32A of the 2011 Accounts Rules (or Rule 12.1 of the 2019 Accounts Rules).

In so failing, he breached all or any of:

1.4.6. Principles 4, 6, 7 and 10 of the 2011 Principles (insofar as such failure occurred on or before 24 November 2019);

1.4.7. Principle 2 and Principle 7 of the SRA Principles 2019 ("the 2019 Principles") (insofar as such failure occurred on or after 25 November 2019).

Documents

2. The Tribunal had before it documents including:-

- A bundle agreed between the parties in support of the application for an Agreed Outcome
- Written submissions from Mr Mulchrone for the SRA dated 3 May 2022
- A letter from Mr Khan's former solicitors dated 3 May 2022 in support of the application for an Agreed Outcome

Preliminary Issues

3. This matter involved two Respondents of whom Mr Khan was the First Respondent.

4. A proposed Agreed Outcome was filed on 11 April 2022 by the parties for the Second Respondent Mr Goldring. A proposed Agreed Outcome was filed in respect of Mr Khan on 13 April 2022 that is within 28 days of the date listed for the substantive hearing of the matter, The Tribunal gave leave under Rule 25 of the Solicitors Disciplinary Rules ("SDPR") 2019 on 20 April 2022 for the latter Agreed Outcome to be filed out of time as it was only two days late.

5. Both applications for an Agreed Outcome were considered on the papers on 20 April 2022. The Tribunal decided under Rule 25(4) of the SDPR that it wished to hear from the parties before making its decision and directed that a Case Management Hearing ("CMH") take place for the parties to make submissions, before the Tribunal arrived at a final decision. In accordance with the Rule the CMH was held in private. The Lay

Member of the Panel which considered the case at the CMH, Mr Hurley had also considered the initial applications on the papers as permitted by Rule 25.

Factual Background

6. The First Respondent Mr Khan was born in 1971 and admitted to the Roll of Solicitors on 15 May 2008. At all material times, he was a director of the Firm, a recognised body, which he had originally established as a recognised sole practice on 16 February 2015.

7. The Firm became a limited company which was authorised from 1 November 2015, but did not commence trading until in or around April 2016. Between 2016 and 2018 it used the trading name "Tangent Law" for its commercial work. From at least 13 April 2016 to 12 June 2020 Mr Khan held the role of Compliance Officer for Legal Practice ("COLP"). He also held the role of Compliance Officer for Finance and Administration ("COFA") from at least 21 September 2017 to 12 June 2020, when the Firm closed, due to an inability to obtain professional indemnity insurance.

8. Mr Khan's Practising Certificate was suspended on 3 November 2020, when the Applicant, the SRA intervened into the Firm. Prior to the intervention Mr Khan had held a full practising certificate free from conditions. At the date of issue of the proceedings, Mr Khan held a Practising Certificate "subject to the following conditions:

    8.1 Mr Khan is not a manager or owner of an authorised body.

    8.2 Mr Khan may not practise on his own account under regulation 10.2(a) or (b) of the SRA Authorisation of Individuals Regulations.

    8.3 Mr Khan may not act as a compliance officer for legal practice (COLP) or compliance officer for finance and administration (COFA) for any authorised body.

    8.4 Mr Khan may not hold or receive client money, or act as a signatory to any client or office account or have the power to authorise transfers from any client or office account."

9. On or about 5 September 2019, the SRA received a report from Michelle Quinn of Grosvenor Law concerning the Firm. The report was submitted on behalf of Client A, said to be a member of a prominent, foreign royal family.

10. Ms Quinn's report stated that the Firm had acted on behalf of Client A in relation to the purchase of three high-value motorcars. The transactions had been conducted by the (unadmitted) Second Respondent Mr Goldring, who was based in the Firm's London office. Client A had paid €9,400,000.00 into the Firm's client account but had never received the motorcars or had most of his funds returned. In respect of these transactions, several concerns were also raised. In addition to making a complaint to the SRA, Client A had also made a claim against the Firm's insurers for €8,310,000.00.

11. Due to concerns about the issues raised in Ms Quinn's report, the SRA commissioned a forensic investigation of the Firm. An inspection commenced on 29 October 2019 and the forensic investigation officer ("FIO") thereafter produced a forensic investigation report ("FIR"), with appendices, dated 4 September 2020. In broad summary, the FIR

identified the following matters. At the outset of the investigation the Firm's books of account were unreliable and not up to date. Initially, no reconciliations were available. Compliant client ledgers were not maintained. There was no cashbook in which the Firm recorded transactions on client bank account.

Application for the matter to be resolved by way of Agreed Outcome

12. The parties invited the Tribunal to deal with the Allegations against Mr Khan in accordance with the Statement of Agreed Facts and Proposed Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

13. The Second Respondent Mr Goldring had been served with the proposed Agreed Outcome for Mr Khan and did not object to it.

Findings of Fact and Law

14. The SRA was required to prove the allegations to the standard applicable in civil proceedings (the balance of probabilities). The Tribunal had due regard to Mr Khan's rights to a fair trial and to respect for their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

15. Having reviewed his position as set out in his Answer and taken legal advice, Mr Khan was prepared to make full admissions to the allegations against him. The Tribunal reviewed all the material before it and was satisfied to the required standard that Mr Khan's admissions were properly made.

16. The Tribunal had to restrict itself to the evidence presented and agreed by the parties and consider the proposed Agreed Outcome strictly on that basis as set out in the Tribunal judgment 11716-2017 Panayides & Clifford Chance (applying Re Carecraft Construction Co. Ltd [1994] 1 WLR 172):

> "The Tribunal could only consider the admitted allegations and facts as set out in the Statement of Agreed Facts and Outcome, and whether the sanction appropriately reflected those admitted facts. It could not consider any matters beyond those. Only if the Tribunal concluded that the agreed sanction did not adequately reflect the seriousness of the admitted breaches could it decide not to approve the Agreed Outcome; in which eventuality its only recourse would be to refer the same allegations/admissions to a substantive hearing for determination of the appropriate sanction on those same admitted breaches."

17. The Tribunal had regard to the Guidance Note on Sanctions (December 2021). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. Having regard to the seriousness of Mr Khan's admitted misconduct, he had a high degree of culpability in respect of all the allegations as the proposed Agreed Outcome set out: he was the sole equity owner of the firm, an experienced solicitor and the Firm's COLP and therefore had responsibility and control of the circumstances giving rise to the misconduct. This was a case in which Mr Khan's actions had contributed to a considerable financial loss.

Mr Khan's admissions included that he had failed in oversight in respect of the transactions in which the money was lost and the non-compliant state of the Firm's accounts. The exact degree of harm to Client A had yet to be quantified but the Tribunal agreed that Mr Khan's misconduct harmed the reputation of the profession by his failure to uphold public trust. The latter was reasonably foreseeable. There were aggravating factors as set out in the Agreed Outcome and some mitigation. The Tribunal had to bear in mind that although Mr Khan admitted manifest incompetence in relation to allegations 1.1 and 1.3, there was no allegation of lack of integrity, dishonesty or recklessness.

18. In oral mitigation, Mr Khan emphasised that he accepted that he had an obligation to supervise Mr Goldring. However, he pointed out that between 2016 and 2018 Mr Goldring had been supervised by an experienced solicitor who had died. The events relating to the high value transactions took place in 2016 and 2017 when Mr Goldring was receiving a level of supervision. Mr Khan also submitted that although Mr Goldring was originally inducted as a trainee this was not carried through and he was a consultant to the Firm. The agreement between Mr Goldring and the firm reflected that; there was an 80%/20% split of fees earned by Mr Goldring in his favour. Mr Khan said that he was a self-employed solicitor with a personal injury practice and had been from the outset.

19. The Tribunal noted that it was submitted on Mr Khan's behalf by his former solicitor that the allegations arose from the management of a law firm rather than the specific practise of law, there was no suggestion that Mr Khan was a bad lawyer, rather he was a bad manager. The conditions on his practice imposed in the Agreed Outcome would mean that if Mr Khan returned to practise, he would only do so in a fee-earning rather than managerial capacity. He had already been subject to conditions upon his practice for some time.

20. The Tribunal had had some concerns that the Respondents were offering conflicting mitigation with each to some extent blaming the other for what had occurred regarding the transactions for Client A and that this made the proposed Agreed Outcomes inconsistent. Mr Khan's former solicitor submitted that this was not so: Mr Khan's non-agreed mitigation within his Agreed Outcome was that Mr Goldring was an experienced businessman, which was designed to reflect the fact that he was involved in other business and had worked in a legal setting since 2008. It was intended to reflect the position that Mr Goldring was not a trainee fresh out of law school which was a fact accepted on behalf of Mr Goldring. There was also reference to the financial gains of Mr Goldring in the differing Agreed Outcomes. Mr Khan said that in general Mr Goldring made significantly more of the consultancy agreement than the firm; it was not a specific reference to the deal which was the subject of the misconduct alleged and admitted. The Tribunal noted that this explanation went towards addressing its concern.

21. As to sanction, the Tribunal took into account that Mr Khan's failure to supervise, allowing his client account to be used as a banking facility and causing, allowing or failing to prevent payment of monies to third parties without the client's consent had related to a considerable financial loss which harmed a client and damaged the reputation of the legal profession. He had admitted manifest incompetence in respect of allegations 1.1 and 1.3. This was clearly too serious for no order or a reprimand or

of any level of fine. However, in the absence of lack of integrity and more serious allegations, strike off did not seem appropriate. The Guidance Note on Sanctions set out that a fixed term of suspension was to be applied when the Tribunal had concluded that the respondent should be immediately removed from practice, but that the protection of the public and of the reputation of the legal profession did not require that they be struck off. The suspension was to be of such length both to punish and deter whilst being proportionate to the seriousness of the misconduct. The Tribunal considered very carefully whether the 12 month suspension proposed, followed by indefinite restrictions upon Mr Khan's practice were adequate. Mr Khan had already been suspended for six months following the intervention into the Firm. The indefinite restrictions proposed to follow the period of suspension placed severe constraints on the way Mr Khan would be permitted to practise in future and would serve to protect the public from further harm. After very serious consideration, the Tribunal was prepared to approve the Agreed Outcome proposed in respect of Mr Khan.

Costs

22. The parties had agreed that Mr Khan should contribute to the SRA's costs in the amount of £20,000. The Tribunal accepted this suggested figure.

Statement of Full Order

23.1. The Tribunal Ordered that the Respondent, RAJA SHAZAD KHAN, solicitor, be suspended from practice as a solicitor for the period of 12 months to commence on the 4th day of May 2022 and it further Ordered that he do pay an agreed contribution to the costs of and incidental to this application and enquiry fixed in the sum of £20,000.00.

23.2. Upon the expiry of the fixed term of suspension referred to above, the Respondent shall be subject to conditions imposed by the Tribunal indefinitely as follows:

23.3 The Respondent may not:

26.3.1 Be a manager or owner of an authorised body.

26.3.2 Practise on his own account under regulation 10.2(a) or (b) of the SRA Authorisation of Individuals Regulations.

26.3.3 Act as a Compliance Officer for Legal Practice (COLP) or Compliance Officer for Finance and Administration (COFA) or Money Laundering Reporting Officer (MLRO), or Money Laundering Compliance Officer (MLCO), or Head of Legal Practice (HOLP), or Head of Finance and Administration (HOFA) for any authorised body.

26.3.4 Hold or receive client money, or act as a signatory to any client or office account or have the power to authorise transfers from any client or office account.

23.4 There be liberty to either party to apply to the Tribunal to vary the conditions set out at paragraph 23.2 above.

Dated this 27th day of May 2022
On behalf of the Tribunal

E Nally
Chair

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL **Case No: 12263-2021**

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

B E T W E E N:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

and

RAJA SHAZAD KHAN (SRA ID: 23819)

First Respondent

and

COLIN ANTHONY GOLDRING (SRA ID: 491759)

(Unadmitted)

Second Respondent

AGREED OUTCOME PROPOSAL IN RELATION TO THE FIRST RESPONDENT
Pursuant to Rule 25 of the Solicitors (Disciplinary Proceedings) Rules 2019

A Introduction

1. By an Application and Statement made by Rory Thomas Mulchrone on behalf the Applicant, Solicitors Regulation Authority Limited (**"the SRA"**), pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019 (**"the Rules"**), dated 12 October 2021 (**"the Rule 12 Statement"**), the SRA brought proceedings before the Tribunal making allegations of misconduct against Mr Khan (**"the First Respondent"**). The matter has been listed for substantive hearing before the Tribunal between Monday 9 and Friday 13 May 2022.

2. Having reviewed his position as set out in his Answer and taken legal advice, the First Respondent is now prepared to make **full admissions** to the allegations against him and, subject to the Tribunal's approval, to accept a sanction which is commensurate with the Tribunal's Guidance Note on Sanction (9th Edition) (**"the Guidance Note"**).

3. The sanction proposed is an order of **suspension for 12 months**, to be followed immediately on its expiry by an **indefinite restriction order**, further details of which are given below.

4. In the event that the Tribunal approves the Outcome proposed in this document, the First Respondent has agreed to contribute towards the SRA's costs of the Application and Enquiry, in the agreed sum of £20,000.00. In reaching agreement on this figure, the SRA has had due regard to the First Respondent's means

5. The SRA has considered the admissions being made and whether those admissions, and the outcomes proposed in this document, meet the public interest having regard to the gravity of the matters alleged. For the reasons explained in more detail below, and subject to the Tribunal's approval, the SRA is satisfied that the admissions and outcome do satisfy the public interest.

6. In accordance with Practice Direction 1, a copy of this document is being served upon the Second Respondent. The SRA and the First Respondent do not consider that approval of this Agreed Outcome Proposal would unfairly prejudice the Second Respondent but will of course be pleased to consider any submissions to the contrary made within seven days, in line with the Practice Direction.

B Admissions

7. The First Respondent **admits all of the allegations** against him pleaded at paragraph 1 of the Rule 12 Statement, namely that:

> "*… while in practice as a solicitor at and the sole equity owner of Justice Solicitors Ltd (SRA ID: 628577) (**"the Firm"**)*:
>
> "*Client A*
>
> "*Improper provision of banking facility*
>
> *1.1. Between approximately June 2016 and March 2018, he caused, allowed or failed to prevent the Firm's improper provision of a banking facility to Client A (identified in Schedule 1), absent an underlying legal transaction or a service forming part of the normal regulated activities of solicitors; and he therefore breached all or any of:*
>
> *1.1.1. Rule 14.5 of the SRA Accounts Rules 2011 ("the 2011 Accounts Rules");*
> *1.1.2. Principle 6, Principle 7 and Principle 8 of the SRA Principles 2011 ("the 2011 Principles").*
>
> *…*
>
> "*Payments to third parties*

1.2. Between approximately June 2016 and April 2017, he caused, allowed or failed to prevent the payment, by or at the behest of the Second Respondent, of monies totalling up to €8,310,780.00 from the Firm's client account to third parties (as shown in Schedule 2), without Client A's knowledge and/or informed consent; and he therefore breached all or any of:

1.2.1. Rule 20.1 of the 2011 Accounts Rules;

1.2.2. Principle 4, Principle 5 and Principle 10 of the 2011 Principles.

…

"*Failure to supervise the Second Respondent*

1.3. Between approximately June 2016 and April 2018, he failed adequately or at all to supervise the Second Respondent's conduct of one or more matters relating to Client A; and, in so failing, breached one or both of Principle 6 and Principle 8 of the 2011 Principles.

…

"*<u>Compliance with the Accounts Rules</u>*

*1.4. Between approximately August 2016 and June 2020, he failed fully to comply (or to ensure the Firm's compliance) with the 2011 Accounts Rules and/or the SRA Accounts Rules 2019 (**"the 2019 Accounts Rules"**), in that he failed, adequately or at all:*

1.4.1. to conduct client account reconciliations at least once every 5 weeks, in breach of Rule 29.12 of the 2011 Accounts Rules (or Rule 8.3 of the 2019 Accounts Rules);

1.4.2. to keep and maintain proper and accurate accounting records, in breach of Rules 1.2(f) and/or 29.1 of the 2011 Accounts Rules (or Rule 8.1 of the 2019 Accounts Rules);

1.4.3. to return client money promptly, in breach of Rule 14.3 of the 2011 Accounts Rules (or Rule 2.5 of the 2019 Accounts Rules);

1.4.4. to remedy or correct breaches promptly upon discovery, in breach of Rules 6 and/or 7 of the 2011 Accounts Rules (or Rule 6.1 of the 2019 Accounts Rules);

1.4.5. to obtain any or adequate Accountant's Reports, in breach of Rule 32 or Rule 32A of the 2011 Accounts Rules (or Rule 12.1 of the 2019 Accounts Rules).

In so failing, he breached all or any of:

1.4.6. Principles 4, 6, 7 and 10 of the 2011 Principles (insofar as such failure occurred on or before 24 November 2019);

1.4.7. Principle 2 and Principle 7 of the SRA Principles 2019 ("the 2019 Principles") (insofar as such failure occurred on or after 25 November 2019)."

C Agreed facts

Professional details

8. The First Respondent was born on 5 February 1971 and admitted to the Roll of Solicitors on 15 May 2008. At all material times, he was a director of the Firm, a recognised body, which he had originally established as a recognised sole practice on 16 February 2015.

9. The Firm became a limited company which was authorised from 1 November 2015, but did not commence trading until in or around April 2016. Between 2016 and 2018 it used the trading name 'Tangent Law' for its commercial work. From at least 13 April 2016 to 12 June 2020 the First Respondent held the role of Compliance Officer for Legal Practice (**"COLP"**). He also held the role of Compliance Officer for Finance and Administration (**"COFA"**) from at least 21 September 2017 to 12 June 2020, when the Firm closed, due to an inability to obtain professional indemnity insurance.

10. The First Respondent's practising certificate was suspended on 3 November 2020, when the SRA intervened into the Firm. Prior to the Intervention the First Respondent had held a full practising certificate free from conditions. At the time of the Rule 12 Statement, the First Respondent held a practising certificate subject to the following conditions:

    "*1. Mr Khan is not a manager or owner of an authorised body.*

    "*2. Mr Khan may not practise on his own account under regulation 10.2(a) or (b) of the SRA Authorisation of Individuals Regulations.*

    "*3. Mr Khan may not act as a compliance officer for legal practice (COLP) or compliance officer for finance and administration (COFA) for any authorised body.*

    "*4. Mr Khan may not hold or receive client money, or act as a signatory to any client or office account or have the power to authorise transfers from any client or office account.*"

Background

Report from Grosvenor Law

11. On or about 5 September 2019 the SRA received a report from Michelle Quinn of Grosvenor Law concerning the Firm. The report was submitted on behalf of Client A, said to be a member of a prominent, foreign royal family.

12. Ms Quinn's report stated that the Firm had acted on behalf of Client A in relation to the purchase of three, high-value motorcars. The transactions had been conducted by the (unadmitted) Second Respondent, who was employed as a consultant at the Firm, based

in the London office. Client A had paid €9,400,000.00 into the Firm's client account but had never received the motorcars or had most of his funds returned. In respect of these transactions, the following concerns were also raised:

12.1. The Second Respondent had informed Client A that one of the cars was being purchased from the manufacturer, when in fact was it being purchased via intermediaries.

12.2. The Firm had made several payments to intermediaries involved in the transactions, of which Client A had no knowledge.

12.3. The payments included a transfer of €1,340,000.00 to a bank account in Tunisia. It was unclear what anti-money laundering checks the Firm had undertaken in respect of any of these transactions.

12.4. By acting in the purchase of these motorcars, the Firm had provided a banking facility through its client account.

13. In addition to making a complaint to the SRA, Client A had also made a claim against the Firm's insurers for €8,310,000.00.

Forensic inspection of the Firm

14. Due to concerns about the issues raised in Ms Quinn's report, the SRA commissioned a forensic investigation of the Firm.

15. An inspection commenced on 29 October 2019 and the forensic investigation officer (**"FIO"**) thereafter produced a forensic investigation report (**"FIR"**), with appendices, dated 4 September 2020. In broad summary, the FIR identified the following matters.

16. At the outset of the investigation the Firm's books of account were unreliable and not up to date. Initially, no reconciliations were available. Compliant client ledgers were not maintained. There was no cashbook in which the Firm recorded transactions on client bank account.

17. As at the date of the FIR (4 September 2020), the most recent reconciliation statement provided was up to 30 September 2019. The books written up to 30 September 2019 were unreliable due to multiple issues including:

17.1. The two matters listings provided showed different totals for client liabilities and total matters. No explanation was provided as to why the lists differed, nor which was the correct one.

17.2. The matter lists provided did not show details of office balances. No explanation was given for why this was the case.

17.3. One of the matter lists provided showed 97 overdrawn client account balances totalling £302,503.50. Reviews of a sample of files did not show a minimum shortage as the client matter ledgers contained mispostings. At the date of the FIR

the Firm had not provided explanations for the misposted items, nor identified the correct ledger to which the items belonged.

17.4. The most recent Accountant's Report was for the period up until 26 July 2016. No further reports had been obtained since that date.

18. As to the high value vehicle transactions referred to in Ms Quinn's report:

18.1. Full chronological files for those transactions were not available. The documentation provided did not provide a complete picture of the transactions.

18.2. The Firm was unable to state for whom the Second Respondent had been acting and denied that the Firm had acted for Client A. In correspondence the Firm stated it had acted for Person C, an "*agent*" involved in the transactions. But this position was contradicted by correspondence on the file, in which the Second Respondent described himself as acting for Client A. The Second Respondent had also purported to sign documents on Client A's behalf.

18.3. In any case, the Firm had failed to carry out any or adequate due diligence in connection with Person C. Identity documents for Client A were provided comprising a picture of a passport and a letter designating Person C as his agent. No other due diligence documentation was provided for any of the various parties involved.

18.4. The Firm had paid monies from its client account to various third parties. No checks had been performed on the source of the received funds, or on the accounts to which sums were paid (including a large sum paid to a Tunisian bank account).

18.5. There was no underlying legal transaction associated with the transfers of money. The Firm's role was to receive and to pay out monies via its client account (i.e. a purely administrative role and not a proper use of client account).

Closure of the Firm

19. As noted above, the Firm ceased to trade on 12 June 2020 due to an inability to obtain Professional Indemnity Insurance.

20. The First Respondent submitted a Firm Closure Notification form to the SRA on 9 June 2020. The total balance of the client account was stated to be £154,411.00.

21. The form stated that the Firm's "*files, staff and office*" would be transferred to AUUA Law. It is understood that 180 live files were to be transferred. When asked if he had sent any client monies to AUUA Law, the First Respondent initially said "*yes*".

22. However, in subsequent representations made on his behalf, it was said that:

> "*all of the available funds existing upon the closure of the Firm remain ring fenced in the bank account. In other words, it has not reached AUUA*".

Closure of the Firm's bank accounts by Barclays Bank

23. After the First Respondent notified the SRA of the closure of the Firm, the FIO asked him to provide updated bank statements for the Firm's accounts. The First Respondent provided the FIO with bank statements which revealed that the Firm's client and office accounts had been closed on 17 and 18 August 2020 and the balance of both accounts transferred to another account.

24. The First Respondent provided with the FIO with further letters from Barclays Bank dated 18 June 2020 and 1 September 2020. The letters advised that Barclays had closed the accounts and the funds were held in one of Barclays' "*internal*" accounts. The FIO produced a memorandum relating to this issue on 3 September 2020.

Allegation 1.1 – Between approximately June 2016 and March 2018, he caused, allowed or failed to prevent the Firm's improper provision of a banking facility to Client A (identified in Schedule 1), absent an underlying legal transaction or a service forming part of the normal regulated activities of solicitors; and he therefore breached all or any of: Rule 14.5 of the SRA Accounts Rules 2011 ("the 2011 Accounts Rules"); Principle 6, Principle 7 and Principle 8 of the SRA Principles 2011 ("the 2011 Principles")

The regulatory and legal framework

25. At all material times, Rule 14.5 of the 2011 Accounts Rules provided:

> "*You must not provide banking facilities through a client account. Payments into, and transfers or withdrawals from, a client account must be in respect of instructions relating to an underlying transaction (and the funds arising therefrom) or to a service forming part of your normal regulated activities.*"

26. Guidance note (v) to that Rule stated:

> "*Rule 14.5 reflects decisions of the Solicitors Disciplinary Tribunal that it is not a proper part of a solicitor's everyday business or practice to operate a banking facility for third parties, whether they are clients of the firm or not. It should be noted that any exemption under the Financial Services and Markets Act 2000 is likely to be lost if a deposit is taken in circumstances which do not form part of your practice. It should also be borne in mind that there are criminal sanctions against assisting money launderers.*"

27. The origins, proper construction and importance of Rule 14.5 have been the subject of judicial attention. In Patel v Solicitors Regulation Authority [2012] EWHC 3373 (Admin) Cranston J (with whom Moore-Bick LJ agreed) said, at [18]:

> "*… rule 14.5 is a crystallization of the principle established in Wood and Burdett… The first sentence of the rule contains the prohibition on the use of a client account to provide banking facilities. Use of the term "instructions" in the next sentence of the rule implies professional instructions, in other words instructions relating to the accepted professional services of solicitors. The term is being used in rules concerned with the*

work of solicitors and takes its meaning from that context. Thus the import of the first limb of the second sentence of rule 14.5 is that movements on a client account must be in respect of instructions relating to an underlying transaction which is part of the accepted professional services of solicitors. In shorthand the instructions must relate to an underlying legal transaction. The other limb of that second sentence requires that movements on a client account must be in respect of instructions related to a service forming part of the normal regulated activities of solicitors. That is a provision the ambit of which is to be measured in terms of the regulatory regime for solicitors."

28. In Fuglers v Solicitors Regulation Authority [2014] EWHC 179 (Admin), Popplewell J explained the mischief at which the rule is aimed (at [39] to [42]). There were at least three strands:

"*The first strand is that it is objectionable in itself for a solicitor to be carrying out or facilitating banking activities because he is to that extent not acting as a solicitor. If a solicitor is providing banking activities which are not linked to an underlying transaction, he is engaged in carrying out or facilitating day to day commercial trading in the same way as a banker. This is objectionable because solicitors are qualified and regulated in relation to their activities as solicitors, and are held out by the profession as being regulated in relation to such activities. They are not qualified to act as bankers and are not regulated as bankers. If a solicitor could operate a banking facility for clients which was divorced from any legal work being undertaken for them, he would in effect be trading on the trust and reputation which he acquired through his status as a solicitor in circumstances where such trust would not be justified by the regulatory regimen: see Patel v SRA per Cranston J at [34]. Such behaviour has the potential to cause significant damage to the standing of the profession…*

"*The second strand is that allowing a client account to be used as a banking facility, unrelated to any underlying transaction which the solicitor is carrying out, carries with it the obvious risk that the account may be used unscrupulously by the client for money laundering…*

"*The third strand arises in the particular context of insolvency or risk of insolvency. In such context, to allow a client account to be used as a banking facility is objectionable for several reasons. In the first place, it allows the client to achieve that which the client will normally be unable to achieve from any bank. It is the common practice of banks, as happened with the Club's bank in this case, to withdraw facilities upon notification that there has been a winding up petition. The solicitor is therefore giving the client a commercial service which would otherwise be unavailable to it through the device of using a solicitor as if he were a bank. Secondly there is the risk of disaffection and opprobrium which is involved in favouring one creditor over another. This exists in the absence of any risk of insolvency, but becomes more acute in the event of insolvency*

or potential insolvency. This arises irrespective of whether dispositions would or would not be subject to invalidity by the operation of section 127. A third reason is the risk of section 127 applying so as to require creditors to reimburse payments from the client account in a subsequent liquidation. A solicitor who knowingly makes or facilitates such payments may be subject to a personal liability, quite apart from the liability of the payee to reimburse the amount transferred. That is why banks usually withdraw banking facilities when they are notified of a winding up petition."

29. On 18 December 2014 an official SRA Warning Notice was issued to the profession, entitled "*Improper use of client account as a banking facility*" (**"the Warning Notice"**). A competent solicitor would have had due regard to and heeded the Warning Notice. The Warning Notice drew attention to relevant case law (including Patel and Fuglers) and stated, inter alia, that:

    "*There must be a reasonable connection between the underlying legal transaction and the payments*

    "*Whether there is a reasonable connection is likely to depend on the facts of each case but where the legal services are purely advisory, it will clearly be more difficult to show a reasonable connection. The fact that you have a retainer with a client does not give you licence to process funds freely through client account on the client's behalf. Throughout a retainer, you should question why you are being asked to receive funds and for what purpose. You should only hold funds where necessary for the purpose of carrying out your client's instructions in connection with an underlying legal transaction or a service forming part of your normal regulated activities. You should always ask why the client cannot make the payment him or herself. The client's convenience is not the paramount concern and, if the client does not have a bank account in the UK, this considerably increases the risks. You should be prepared to justify any decision to hold or move client money to us where necessary.*"

Relationship between the First and Second Respondents

30. SRA records showed that the Second Respondent was registered as a trainee solicitor at the Firm on 21 December 2015 but he was not shown as having qualified.

31. According to his CV, the Second Respondent had joined "*Tangent Law*" in July 2015. As noted above, this was a trading name for the Firm's commercial work. The CV claimed that the Second Respondent had set up the Firm's London office and that his work consisted of:

    "*advising on asset acquisitions, structuring purchases, drafting contracts for assets, commodities and share sale and purchase, shareholders agreements, standard terms and conditions, options on land, loan and non circumvention/ non disclosure agreements*".

32. The First Respondent told the FIO that the Second Respondent had been introduced to the Firm by a contact at a medical agency who had known the Second Respondent at his previous firm. The First Respondent said that they had interviewed the Second Respondent and spoken to former colleagues of his. He said they did not ask for references as the Second Respondent had issues with his former employer.

33. The First Respondent provided the FIO with the consultancy agreement between the Firm and the Second Respondent. The consultancy agreement start date was given as 17 June 2015. The Agreement provided that the Second Respondent would be paid "*80% of any billed and recovered fee income of the Consultant and or his staff or assistants together with value added tax thereon (if applicable)…*".

34. The Agreement stated that the Second Respondent would provide legal services to clients of the Firm. In particular, it stated that:

> "*The Consultant shall keep the Firm informed of progress on the projects in which the Consultant is engaged and shall produce written reports on the same from time to time when so requested by the Firm in the form of case file reviews. While the Consultant's method of working is entirely their own and they are not subject to the control of the Firm, they shall nevertheless promptly comply with this and any other reasonable requests of the Firm.*"

35. The Agreement also provided that the Consultant might "*delegate performance of the Consultancy Services to such suitably qualified and experienced personnel as they may from time to time deem appropriate*". The Firm was to be notified if the Second Respondent passed work onto others. The Agreement did not provide for the Firm to have oversight of those to whom the Second Respondent might delegate performance of his services.

36. The Agreement also provided that the Second Respondent could employ his own staff for which he would be "*entitled to fees based on billed and recovered fee income for work undertaken both by the Consultant and his team of Solicitors and paralegals at the same rate…*".

37. The Agreement stated that the Second Respondent would choose the office from which he would work, and he would be responsible for the costs of running that office. The Second Respondent worked from the Firm's London office.

38. The First Respondent provided a list of payments made to the Second Respondent under the consultancy agreement. This showed that between November 2015 and January 2019 the Second Respondent received the total sum on £146,059.99.

39. The First Respondent said the amounts were verified by checks made to the Firm's bank statements. The FIO requested the invoices relating to the payments, but none were provided.

40. In interview, the First Respondent said that the Second Respondent had registered to begin a training contract but that he had never started it. All of his work was conducted

under the consultancy agreement. The First Respondent said that the Second Respondent had supplied the consultancy agreement which he said was a "*standard one*".

41. The First Respondent also confirmed that the London office had closed in 2019. In addition to the Second Respondent, a solicitor called Nick Gordon had also worked from the London office. Mr Gordon passed away in October 2018. A trainee solicitor had also been based at the London office.

42. The First Respondent said that the London office was a serviced office, with a shared reception. The Firm did not have any administrative staff based at the London office. The First Respondent said that the staff based at the London office would work from home and visit the office to collect post and see clients.

43. The First Respondent said that the Second Respondent was responsible for paying for the London office. He could not recall how much the office had cost to maintain.

44. At the FIO's first visit to the Firm, on 29 October 2019, she requested some of the Second Respondent's files. The First Respondent said that he did not have any of the Second Respondent's files, as they had been in the Second Respondent's possession since the London office closed. The FIO requested that the files be returned to the Firm.

45. On 21 November 2019, the First Respondent forwarded the FIO an email from the Second Respondent dated 11 November 2019. This contained the following passage:

> "*What do they mean recover files from me? The files aren't in my possession, we worked from an electronic filing system using a secure shared drive, I can't access it anymore my e-mails for Justice and Tangent haven't worked for years! I have a backup folder on my old computer which hasn't worked for years either, always freezes up after I turn it on I've managed to get it stable enough to send the backup files on Wetransfer which I'm still trying to upload now.*"

46. The First Respondent subsequently provided the FIO with electronic copies of the Second Respondent's files on a memory stick.

47. At interview the First Respondent said that the Second Respondent also had paper files relating to matters he handled.

<u>The high-value vehicle transactions</u>

48. As noted above, a complaint was made by Grosvenor Law on behalf of Client A, regarding three expensive vehicles he had intended to purchase.

49. At the beginning of the forensic investigation the First Respondent said that the Firm had received a letter of claim from Grosvenor Law in relation to the cars. The claim set out that the car purchases had not completed and that the firm owed Client A the total sum of €8,110,763.53. This represented monies allegedly retained by the Firm in respect of the failed car purchases.

50. The letter of claim stated, inter alia, that:

50.1. Client A had intended to buy three cars;

50.2. The Firm had acted for Client A and received a total of €9,400,000 in payment for the three cars;

50.3. There had not been an adequate explanation of where the monies had been paid;

50.4. The cars were not supplied, and Client A had not had the majority of the monies returned.

50.5. The Firm had made false statements in relation to the car transactions.

51. The letter of claim detailed Grosvenor Law's understanding of the three transactions as follows:

Ferrari Aperta

51.1. Client A had been referred to the Firm by Person C and Person D on or about 25 June 2016.

51.2. Client A was misled by the Firm into believing he was purchasing the car directly from Ferrari. In fact the purchase was directed through two named intermediaries.

51.3. The purchase price for the vehicle was given by the Second Respondent as €4,950,000.00, of which, €4,500,000.00 was the list price for the car and €450,000.00 was to be paid in commissions. In fact, commissions paid were closer to €750,000.00.

51.4. Client A understood that the Firm was acting for him, though he did not receive a client care letter.

51.5. Monies were paid into the Firm's client bank account. Three entities had subsequently received commissions totalling €750,000.00. Client A did not authorise those payments.

51.6. Client A withdrew from the transaction via representatives in France due to "*the overall lack* [of] *transparency about the entire transaction and the false and misleading information given…*". Client A, via his representatives, requested the return of the monies paid over on 16 March 2018**.**

51.7. The Firm had repaid the sum of €1,089,236.47, described as the "*funds remaining on account*". Approximately €1,980,000 remained unaccounted for.

Ferrari FXX-K

51.8. As with the Ferrari Aperta, Client A was under the impression that he was to purchase the car directly from Ferrari. In fact, however, there were intermediaries, which Client A was unaware of until some way through the transaction.

51.9. The Second Respondent had made misleading statements about the nature of the transaction; the role of the unknown intermediaries was "*deliberately obscured*".

51.10. The purchase price was given as €5,600,000.00, a sum described as "*including premiums*". Such premiums were not explained and there was no breakdown of the purchase price.

51.11. Client A had made payments to the Firm's client bank account totalling €3,600,000.00 between August and November 2016 in accordance with a payment schedule. Client A was advised by the Second Respondent that, if he fell behind with the stated payment schedule, he could lose the monies that he had paid over so far. No justification was given for why that should be the case.

51.12. The Second Respondent had not provided any evidence that ownership of the car has passed to Client A.

51.13. The original price for the car from Ferrari was €2,125,000.00. There had been no explanation for why the price given by the Second Respondent was €5,600,000.00, since another party to the transaction later stated the purchase price was €3,800,000. It had not been explained to whom the uplift paid by Client A was due.

Bugatti Chiron

51.14. The Second Respondent misrepresented the true nature of the transaction by stating that he would be "*dealing directly*" with Bugatti in relation to the purchase. However, during the transaction Client A became aware of the involvement of a named intermediary.

51.15. The purchase price was stated by Client A to be €3,000,000.00 "*including premiums*". Client A paid €850,000.00 into the Firm's client account on 13 September 2016, from which $250,000.00 was paid to Bugatti.

51.16. Client A became "*suspicious*" when he was provided with two different versions of the Purchase Agreement and sent the documents to be verified by a contact at Bugatti. The contact confirmed the document was fraudulent and that he considered that it had been created in order to secure the "*premium*" of $200,000.00.

51.17. The Second Respondent gave a convoluted explanation, blaming a "*miscommunication*" between Bugatti entities in different countries.

51.18. Three payments had been made which were not authorised by Client A totalling £850,000.00.

52. The First Respondent said he had notified the claim to the Firm's insurers who had appointed Kennedys Solicitors to represent the Firm.

<u>The Firm's account of the transactions</u>

53. The FIO made attempts to contact the Second Respondent for his comments and explanations. Letters were sent to his home address as held by the SRA, emails were sent to his email address, and calls were made to his mobile telephone number (as provided by the First Respondent). None of the attempts elicited a response.

54. The First Respondent said that he had initially been in contact with the Second Respondent about the vehicle transactions, and that the Second Respondent had attended a first meeting at Kennedys in November 2019 in which the transactions were discussed. However, since that time, the Second Respondent had stopped responding to attempts to contact him.

No underlying legal transaction

55. The FIO could find no client care letter outlining what legal work the Firm had been instructed to undertake.

56. Further, there was nothing on the file to show that any legal advice had offered to any of the parties in respect of the transactions.

57. A letter from the Firm to Kingsley Napley stated that the Firm considered that its instructions were

> "*limited to receiving and making payments … not to advise on the merits of any transaction, the transaction documents or complete background checks on the parties involved*".

58. It is of course long established that "*A solicitor should have no role to play in the collection and disbursement of monies in a situation where he is not receiving fees for the benefit of his advice*".[1]

59. In interview the First Respondent said that he had seen a client care letter for the matter "*on the system*". He said he understood the letter was to Person C and that Person C was Client A's agent.

60. The FIO asked the First Respondent what the Firm's role was in the transactions. The following exchange ensued:

> AE Ok. What exactly were the firm's instructions in relation to these three car transfers?
>
> RJ Erm to deal with the financials, transactions, the payment.
>
> AE To deal with the financials? What was…
>
> RJ Yes, deal with the payment.
>
> AE What was the underlying legal work then?
>
> [Short pause]
>
> RJ Erm the… the legal work involved looking at the contracts.
>
> AE Not according to your letter to Kingsley Napley.
>
> [Short pause]

[1] Wilson-Smith, 8772-2003, SDT

AE The letter at document 17 that you sent me, saying that this was how you imagined the – the – this is how you thought the, the transaction went, it says on 1, 2, 3, 4th paragraph down. *"Whilst we note your letter is investigatory in nature, [insert] formally commence any claim[s] we note your comment that we are liable, together with other parties for the loss by your client. We reject this assertion in its entirety. Our instructions were limited to receiving and make payments pursuant to the three transactions, not to advise on the merits of any transaction, the transaction documents, or complete background checks on the parties involved.* So, what were the firm's instructions?

RJ Erm as per that letter Alice.

AE Ok. So literally just to receive and send monies?

RJ That's right, yes.

AE And that was the entirety of the firm's role?

RJ That's right, yes.

AE So would you accept that there was no underlying legal work here?

RJ Erm no.

AE Is that yes, you do accept that, or no, there wasn't?

RJ Yes, I do, yes.

AE You do accept that?

RJ Yes.

61. The FIO asked the First Respondent whether he thought the Firm's involvement had added a layer of credibility to the transaction. The First Respondent said that he believed the Firm's involvement was because other parties in the transaction preferred the security offered by a firm of solicitors.

62. The First Respondent said that he had been aware of the transaction at the time, and he believed the monies would be received from the buyer and transmitted to the seller. He said he could not remember whether he had considered the underlying legal work at the time of the transaction.

63. The FIO asked the First Respondent whether he considered that the Firm "*were simply acting as a banking facility*". The First Respondent said "*it would appear so, yes*".

64. The First Respondent said that there had been an internal meeting in which it was determined the firm could continue with the transaction. He could not provide any notes of the discussion or the decision. He could not remember the basis on which the decision was made that the transaction could continue.

Breaches

65. By permitting or failing to prevent the Firm's provision of a banking facility to Client A, absent an underlying legal transaction or a service forming part of the normal activities of solicitors, the First Respondent not only breached Rule 14.5 of the 2011 Accounts Rules but also the following of the 2011 Principles:

    65.1. Principle 6 ("*you must… behave in a way that maintains the trust the public places in you and in the provision of legal services*"). Members of the public would expect solicitors to heed Rule 14.5 and the Warning Notice. They would not expect solicitors to permit their client account to be used other than for a legitimate purpose. The First Respondent's conduct was, at best, manifestly incompetent.

    65.2. Principle 7 ("*you must… comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner*"). The First Respondent failed to comply with his obligations under Rule 14.5 of the 2011 Rules and failed to heed the Warning Notice.

    65.3. Principle 8 ("*you must… run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial and risk management principles*"). Such principles would, at a minimum, require compliance with the prevailing Accounts Rules, including Rule 14.5, and careful attention to and compliance with the Warning Notice.

Allegation 1.2 – Between approximately June 2016 and April 2017, he caused, allowed or failed to prevent the payment, by or at the behest of the Second Respondent, of monies totalling up to €8,310,780.00 from the Firm's client account to third parties (as shown in Schedule 2), without Client A's knowledge and/or informed consent; and he therefore breached all or any of: Rule 20.1 of the 2011 Accounts Rules; Principle 4, Principle 5 and Principle 10 of the 2011 Principles

66. Rule 20.1 of the 2011 Accounts Rules was set out in Appendix 1 to the Rule 12 Statement. At all material times, it strictly limited the circumstances in which client money might be withdrawn from a client account.

67. None of the circumstances provided for in Rule 20.1 applied to the third party payments shown in Schedule 2 to the Rule 12 Statement. It follows that those payments and each of them were in breach of Rule 20.1 of the 2011 Rules.

Breaches

68. By permitting or failing to prevent the Second Respondent's payment of monies totalling up to €8,310,780.00 from the Firm's client account to third parties without Client A's knowledge and/or informed consent the First Respondent not only breached Rule 20.1 of the 2011 Accounts Rules but also the following of the 2011 Principles (or any of them):

68.1. Principle 4 ("*you must… act in the best interests of each client*"). It could not be in the best interests of Client A (or any client) for the Firm to pay his money away to third parties without his knowledge and informed consent.

68.2. Principle 5 ("*you must… provide a proper standard of service to your clients*"). The payments in question demonstrate a lamentable standard of service to Client A.

68.3. Principle 10 ("*you must… protect client money and assets*"). A solicitor cannot possibly protect client money by permitting his consultants to pay it away to third parties in breach of relevant rules designed to protect those funds, such as Rule 20.1 of the 2011 Accounts Rules.

Allegation 1.3 – Between approximately June 2016 and April 2018, he failed adequately or at all to supervise the Second Respondent's conduct of one or more matters relating to Client A; and, in so failing, breached one or both of Principle 6 and Principle 8 of the 2011 Principles

69. The First Respondent retained no or no adequate oversight of the Second Respondent's conduct of matters relating to Client A. Indeed, the First Respondent had entered into a consultancy agreement providing that the unadmitted Second Respondent was "*not subject to the control of the Firm*". The Second Respondent was an unqualified person who, accordingly, ought to have been properly and closely supervised. Instead he was given free rein to channel enormous amounts of money through the Firm's client account in clear and serious breach of the Accounts Rules. This was both inappropriate and dangerous. By failing to supervise the Second Respondent, adequately or at all, the First Respondent breached either or both of:

69.1. Principle 6 ("*you must… behave in a way that maintains the trust the public places in you and in the provision of legal services*"). Members of the public do not expect solicitors to employ unqualified consultants and then give them free rein to act as fee earners without proper supervision. The First Respondent's conduct in doing so was, at best, manifestly incompetent.

69.2. Principle 8 ("*you must… run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial and risk management principles*"). At a minimum, such principles must and do require solicitors to supervise unqualified staff properly and not permit them to handle high-value transactions on behalf of clients without proper oversight.

Allegation 1.4 – Between approximately August 2016 and June 2020, he failed fully to comply (or to ensure the Firm's compliance) with the 2011 Accounts Rules and/or the SRA Accounts Rules 2019 ("the 2019 Accounts Rules")…

70. At the outset of the forensic investigation, the FIO reviewed the Firm's books of account (such as they were) and identified the following issues:

70.1. The Firm's client account transactions were posted on a spreadsheet. This extended to 171 pages and itemised each client's transaction separately in a format mirroring a client ledger.

70.2. No cashbook was available.

70.3. Using the spreadsheet, it was not possible to construct a matter list to show the balance held for all matters.

70.4. No client account reconciliations were available.

71. The First Respondent informed the FIO that issues relating to the Firm's accounts had been caused by a major IT failure in 2017. The Firm had instructed an IT expert to upgrade the Firm's systems but, during the process, all data (including accounts information) had been lost. Neither the First Respondent nor the Firm had reported this catastrophic IT failure or its grave consequences for the Firm's accounts to the SRA at the time.

72. In January 2018, the Firm had instructed an accountant, Person E, to rectify the issues and to rebuild the Firm's books of account. The work was undertaken between January 2018 and January 2019. Person E prepared a matter list which totalled £499,415.61 and contained 422 matters. Of these, 84 showed a debit balance.

73. During this period, the Firm had also instructed another bookkeeper, Person F, to assist with the rebuild. Person F's employment with the Firm was terminated prior to the forensic inspection commencing.

74. The Firm subsequently instructed another bookkeeper, Person G, to assist with reconstructing the accounts.

75. Further detail about the First Respondent's failure to comply with (or ensure the Firm's compliance with) the prevailing Accounts Rules was set out in the FIR at sections D and E.

Reconciliations

76. During the forensic inspection, the First Respondent informed the FIO that all previous reconciliations had been stored electronically and had been lost due to the (unreported) IT failure.

77. The most recent reconciliation provided to the FIO during the forensic inspection was for 30 September 2019. The statement gave the reconciled cashbook balance as £355,275.68.

78. The FIO was provided with a Trial Balance which included a list of client matter balances at 30 September 2019. The Trial Balance provided that the total of the 440 client balances was £355,275.68, which agreed with the most recent reconciliation statement. However, the following issues were identified:

78.1. The list of client balances contained 97 overdrawn client balances.

78.2. Of the 440 matters, some 212 did not have an identifiable client name.

78.3. The Trial Balance document did not show the office side of the client matter ledgers.

79. The First Respondent was asked to provide a "*full matter listing showing client and office balances*". On 21 May 2020, the First Respondent provided a list of matter balances. The final page of the list stated that it included 360 client matters and the total client balance was £313,838.12. This disagreed with the information contained on the Trial Balance document, which listed 440 client matters and client balances totalling £355,275.68. The list did not contain the office side of the ledger.

80. On 22 May 2020, the FIO asked the First Respondent to provide a list that contained office balances and also for an explanation regarding the two matter listings provided by the First Respondent. The First Respondent responded on 28 May 2020 and forwarded an email from his bookkeeper, Person G. This stated:

> "*Please see attached ledger balances for period ending 30.09.2019 for*
>
> *Client-side leap only on client account*
>
> *Office-side only leap*
>
> *Office-and client sides old system*
>
> *I note that leap office-side also has client matter balances please ignore them as this is an office side only report…*"

81. Person G's email attached three documents:

81.1. The Trial Balance document which had been previously provided to the FIO and is referred to above;

81.2. A client matter listing containing both client and office balances, dated 31 March 2019;

81.3. The list of matter balances previously provided to the FIO and referred to above.

82. The FIO sent several requests to the First Respondent seeking further clarification on the missing office balances and the differences in the matter lists provided by him. Despite these requests, no further information was forthcoming. Accordingly, the FIO identified that the Firm's books of account were not a true reflection of its liabilities to clients, such that she was "*unable to calculate whether the firm held sufficient funds in client bank account to match its liabilities*". Furthermore, the FIO identified that no minimum shortage of client funds could be established due to the inaccurate nature of the Firm's books of account.

<u>Overdrawn client balances</u>

83. The Trial Balance document provided by the First Respondent contained 97 overdrawn (debit) client balances. The total of the debit balances was £302,503.50.

84. On 19 May 2020, the FIO asked the First Respondent to provide all client matter ledgers relating to the overdrawn balances and to detail any steps taken to rectify any potential shortage. In response, on 21 May 2020 the First Respondent provided the FIO with a document that contained 61 of 97 ledgers. The First Respondent advised the FIO that he had asked Person G to provide the remaining ledgers.

85. Between 22 May and 4 June 2020, the FIO sent a number emails to the First Respondent asking for the missing ledgers to be provided.

86. On 4 June 2020, the First Respondent provided a 704-page document which he stated contained the relevant ledgers. However, as client names were often absent the FIO was unable to identify the ledgers required. The FIO therefore requested that the specific ledgers be printed and provided.

87. Notwithstanding such request, the remaining ledgers were not provided to the FIO prior to the conclusion of the forensic inspection and the preparation of the FIR.

Unreliable ledgers

88. Of the 61 debit balance ledgers provided by the First Respondent, the FIO selected 10 and reviewed the relevant files. The FIO's review identified that on one of the files there was a potential cash shortage which she had not reported as an actual shortage due to the unreliability of the matter ledgers. The other nine files contained errors, including mispostings and omissions which demonstrated the ledgers could not be relied upon.

89. The FIO reviewed the 61 debit balance ledgers provided by the First Respondent. All showed that the overdrawn balance had been removed since the extraction date. The following issues were identified:

    89.1. The overdrawn balance did not appear on some ledgers and it was unclear how it had been removed.

    89.2. Many of the ledgers included entries transferring monies from office to client bank account to clear the debit balances. These did not correlate with the client and office account bank statements which contained no record of these transfers on the dates shown on the client ledgers.

90. During interview with the FIO, the First Respondent confirmed that no transfers had been made from office to client account in respect of the debit balances.

Accountant's Reports

91. The First Respondent had last obtained an Accountant's Report (unqualified) for the period 29 May 2015 to 26 July 2016. He did not arrange for any further Accountant's Reports to be prepared after 26 July 2016, notwithstanding that the Firm continued to trade until 12 June 2020.

92. The First Respondent was the Firm's COFA from 21 September 2017. He did not arrange for any Accountant's Reports to be prepared while he was the Firm's COFA.

93. The First Respondent claimed to the FIO that his accountant had advised him verbally that the Firm was exempt from obtaining an Accountant's Report. The Firm was not exempt.

Breaches

94. Insofar as the First Respondent's conduct occurred on or before 24 November 2019, it was in breach of the following provisions of the SRA Handbook 2011:

    94.1. Rule 1.2(f) of the 2011 Accounts Rules ("*You must comply with the Principles set out in the Handbook, and the outcomes in Chapter 7 of the SRA Code of Conduct in relation to the effective financial management of the firm, and in particular must: … (f) keep proper accounting records to show accurately the position with regard to the money held for each client and trust"*).

    94.2. Rule 6 of the 2011 Accounts Rules ("*All the principals in a firm must ensure compliance with the rules by the principals themselves and by everyone employed in the firm. This duty also extends to the directors of a recognised body or licensed body which is a company, or to the members of a recognised body or licensed body which is an LLP. It also extends to the COFA of a firm (whether a manager or non-manager).*")

    94.3. Rule 7 of the 2011 Accounts Rules ("*7.1 Any breach of the rules must be remedied promptly upon discovery. This includes the replacement of any money improperly withheld or withdrawn from a client account. 7.2 In a private practice, the duty to remedy breaches rests not only on the person causing the breach, but also on all the principals in the firm. This duty extends to replacing missing client money from the principals' own resources, even if the money has been misappropriated by an employee or another principal, and whether or not a claim is subsequently made on the firm's insurance or the Compensation Fund.*")

    94.4. Rule 14.3 of the 2011 Accounts Rules ("*Client money must be returned to the client (or other person on whose behalf the money is held) promptly, as soon as there is no longer any proper reason to retain those funds. Payments received after you have already accounted to the client, for example by way of a refund, must be paid to the client promptly.*")

    94.5. Rule 29.1 of the 2011 Accounts Rules (*"You must at all times keep accounting records properly written up to show your dealings with: (a) client money received, held or paid by you; including client money held outside a client account under rule 15.1(a) or rule 16.1(d); and (b) any office money relating to any client or trust matter."*)

    94.6. Rule 29.12 of the 2011 Accounts Rules ("*You must, at least once every five weeks: (a) compare the balance on the client cash account(s) with the balances shown on the statements and passbooks (after allowing for all unpresented items) of all general client accounts and separate designated client accounts, and of any account which is not a client account but in which you hold client money under rule*

15.1(a) or rule 16.1(d), and any client money held by you in cash; and (b) as at the same date prepare a listing of all the balances shown by the client ledger accounts of the liabilities to clients (and other persons, and trusts) and compare the total of those balances with the balance on the client cash account; and also (c) prepare a reconciliation statement; this statement must show the cause of the difference, if any, shown by each of the above comparisons").

94.7. Rule 32 or Rule 32A of the 2011 Accounts Rules (each set out in Appendix 1).

94.8. Principle 4 of the 2011 Principles ("*you must… act in the best interests of each client*"). It cannot be in the best interests of any client for a solicitor to receive client money but then fail to comply with the prevailing Accounts Rules intended to protect such funds.

94.9. Principle 6 of the 2011 Principles ("*you must… behave in a way that maintains the trust the public places in you and in the provision of legal services*"). Members of the public expect solicitors to comply with the prevailing accounts rules. Failure to do so is corrosive to public trust.

94.10. Principle 7 of the 2011 Principles ("*you must… comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner*"). The First Respondent failed to inform the SRA of the IT failure which had caused the loss of the Firm's historic accounting records and thereafter failed to comply with the 2011 Accounts Rules.

94.11. Principle 10 of the 2011 Principles ("*you must… protect client money and assets*"). It is or should be axiomatic that protecting client money requires solicitors to comply with the prevailing Accounts Rules.

95. Insofar as it occurred on or after 25 November 2019, the First Respondent's conduct was in breach of the following provisions:

95.1. Rule 2.5 of the 2019 Accounts Rules ("*You ensure that client money is returned promptly to the client, or the third party for whom the money is held, as soon as there is no longer any proper reason to hold those funds*").

95.2. Rule 6.1 of the 2019 Accounts Rules ("*You correct any breaches of these rules promptly upon discovery. Any money improperly withheld or withdrawn from a client account must be immediately paid into the account or replaced as appropriate.*")

95.3. Rule 8.1 of the 2019 Accounts Rules ("*You keep and maintain accurate, contemporaneous, and chronological records to: (a) record in client ledgers identified by the client's name and an appropriate description of the matter to which they relate: (i) all receipts and payments which are client money on the client side of the client ledger account; (ii) all receipts and payments which are not client money and bills of costs including transactions through the authorised body's accounts on the business side of the client ledger account; (b) maintain a list of all the balances*

shown by the client ledger accounts of the liabilities to clients (and third parties), with a running total of the balances; and (c) provide a cash book showing a running total of all transactions through client accounts held or operated by you")

95.4. Rule 8.3 of the 2019 Accounts Rules ("*8.3 You complete at least every five weeks, for all client accounts held or operated by you, a reconciliation of the bank or building society statement balance with the cash book balance and the client ledger total, a record of which must be signed off by the COFA or a manager of the firm. You should promptly investigate and resolve any differences shown by the reconciliation.*")

95.5. Rule 12.1 of the 2019 Accounts Rules ("*If you have, at any time during an accounting period, held or received client money, or operated a joint account or a client's own account as signatory, you must: (a) obtain an accountant's report for that accounting period within six months of the end of the period; and (b) deliver it to the SRA within six months of the end of the accounting period if the accountant's report is qualified to show a failure to comply with these rules, such that money belonging to clients or third parties is, or has been, or is likely to be placed, at risk.*")

95.6. Principle 2 of the 2019 Principles ("*You act… in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons*"). Paragraph 94.9 above is repeated.

95.7. Principle 7 of the 2019 Principles ("*You act… in the best interests of each client*").

D Non-agreed Mitigation

96. The First Respondent advances the following points by way of mitigation but their inclusion in this document does not amount to acceptance or endorsement of such points by the SRA:

96.1. Save for the current proceedings, Mr Khan has never before been the subject of an SRA investigation or disciplinary procedure, as a qualified solicitor since 2008, he can properly be described as having a hitherto unblemished record;

96.2. No allegation of dishonesty or lack of integrity is made against Mr Khan;

96.3. The accounts rule breaches at allegation 1.4 were as a result of a computer failure which Mr Khan tried, but ultimately failed, to rectify;

96.4. Mr Khan had in place a COFA who had been authorised to undertake that role by the SRA. He was entitled to believe that the COFA should have identified that the activities described at allegation 1.1 and 1.2 were in breach of the SRA Accounts Rules. Nevertheless, Mr Khan accepts that as the Principal Solicitor at the Firm, he bears responsibility for allowing those activities to take place;

96.5. When Mr Goldring had initially commenced his consultancy arrangement with the Firm, he had been supervised by another very senior commercial solicitor. Sadly,

prior to the relevant events, that senior solicitor had passed away and no alternative supervisory arrangements were made.

96.6. Despite being a junior lawyer, Mr Goldring was a sophisticated and experienced businessman who portrayed himself as being experienced in commercial transactions;

96.7. The terms of the consultancy agreement between Mr Goldring and the Firm meant that Mr Goldring benefited significantly more on a financial basis than Mr Khan;

96.8. Following the intervention into his Firm, Mr Khan was suspended for a period of 6 months. It can therefore be said that he has already served a significant penalty as a result of the misconduct admitted.

96.9. Mr Khan accepts that he will never be able to manage a law firm again due to his failings at the Firm. To that end, he has demonstrated insight into his own failings as a supervisor and manager.

E Proposed sanction including explanation of why such order would be in accordance with the Tribunal's Guidance Note on Sanction

97. Subject to the Tribunal's approval, it is agreed that the First Respondent shall be suspended for 12 months and that, immediately upon expiry of that suspension, he shall become subject to an indefinite restriction order, whereby the following conditions (which broadly reflect those attaching to the First Respondent's most recent practising certificate) would be imposed on his practice until further order of the Tribunal:

97.1. Mr Khan is not a manager or owner of an authorised body.

97.2. Mr Khan may not practise on his own account under regulation 10.2(a) or (b) of the SRA Authorisation of Individuals Regulations.

97.3. Mr Khan may not act as a Compliance Officer for Legal Practice (COLP) or Compliance Officer for Finance and Administration (COFA) or Money Laundering Reporting Officer (MLRO), or Money Laundering Compliance Officer (MLCO), or Head of Legal Practice (HOLP), or Head of Finance and Administration (HOFA) for any authorised body.

97.4. Mr Khan may not hold or receive client money, or act as a signatory to any client or office account or have the power to authorise transfers from any client or office account.

98. In reaching this agreement, the parties have carefully considered and had regard to the Guidance Note. The parties have also had regard to the principle of proportionality and have considered the possible sanctions in ascending order of seriousness.

99. In respect of culpability (paragraph 18 of the Guidance Note), the First Respondent's actions cannot be described as "*spontaneous*". He had direct control of and responsibility

for the circumstances giving rise to the misconduct. He was an experienced solicitor, the sole equity owner of the Firm, as well as its COLP. The First Respondent's culpability for his actions was accordingly high.

100. In respect of harm (paragraph 19 of the Guidance Note), the Firm's liability to Client A remains to be confirmed and quantified in the civil litigation; however, there is always significant harm to the reputation of the profession when a solicitor permits his client account to be used other than for a legitimate purpose, fails to prevent illegitimate payments out of client account, fails to supervise unqualified staff, and fails to obey the prevailing Accounts Rules. Although there is no allegation that the First Respondent is guilty of conduct lacking integrity, the admitted breaches of the requirement to uphold public trust are enormously serious. Intended or not, all of the harm caused to the reputation of the profession by the First Respondent's actions and inaction was reasonably foreseeable.

101. In respect of aggravating features (paragraph 20 of the Guidance Note): the misconduct was repeated and continued over a substantial period of time; while the First Respondent made some admissions in his Answer, the full admissions herein have been made relatively late in the day; the First Respondent ought reasonably to have known that the conduct complained of was in material breach of obligations to protect the public and the reputation of the legal profession. Further, in making the full admissions which he does to allegations 1.1 and 1.3, the First Respondent admits that his conduct was, at best, manifestly incompetent (as pleaded at paragraphs 66.1 and 70.1 of the Rule 12 Statement).

102. In respect of mitigating factors (paragraph 21 of the Guidance Note): having made admissions to allegations 1.3 and 1.4 in his Answer, the First Respondent has now admitted the allegations against him in full and has cooperated with the SRA.

103. It is agreed that this is not a case where either no order or a reprimand would be an appropriate outcome. Although there is no allegation of dishonesty or lack of integrity against the First Respondent, the admitted allegations are nonetheless very serious indeed. Given the First Respondent's admitted and serious misconduct, it is agreed that suspension from the Roll for a fixed term of 12 months is an appropriate penalty:

    103.1. In view of the First Respondent's admissions to manifest incompetence in relation to allegations 1.1 and 1.3, there is a need to protect the public and reputation of the legal profession from future harm from the First Respondent by temporarily removing his ability to practise.

    103.2. However, in circumstances where the First Respondent is willing to submit to an indefinite restriction order in the terms proposed above, neither the protection of the public nor the protection of the reputation of the legal profession requires an order striking off the First Respondent's name from the Roll.

F Costs

104. As noted above, subject to the approval of this Agreed Outcome Proposal, it is agreed that the First Respondent should pay £20,000.00 towards the SRA's costs of the Application and Enquiry. The SRA is satisfied that this is a reasonable and proportionate contribution by the First Respondent in all the circumstances.

Signed:

Name: Rory Mulchrone

On behalf of the SRA

Dated: 13 April 2022

Signed:

Name:

On behalf of the First Respondent

Dated: 13/4/2022