

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12264-2021

## BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

IRINA MAGDALENA SCHWAB

Respondent

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Before:

Ms A Kellett (in the chair)

Mr M N Millin

Mr R Slack

Date of Hearing: 13 January 2022

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## Appearances

Michael Collis, barrister in the employ of Capsticks LLP, 1 St George's Road, Wimbledon, London SW18 4DR for the Applicant.

Jonathan Goodwin, Solicitor Advocate of Jonathan Goodwin Solicitor Advocate Ltd, 69 Ridgewood Drive, Pensby, Wirral CH61 8RF for the Respondent.

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## JUDGMENT ON AN AGREED OUTCOME

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## **Allegations**

The allegations made by the Solicitors Regulation Authority Limited (“SRA”) against the Respondent, Irina Schwab, were that:

1. Ms Schwab practised as a solicitor through the firm of Schwab & Co Legal Services Ltd (Schwab & Co) (“the Firm”), when neither she nor the Firm had been authorised to do so by the SRA:
  - 1.1 Between April 2015 and 24 November 2019, in breach of all or alternatively any of the following:
    - (a) Rule 1.1 and Rule 10.1 of the SRA Practice Framework Rules 2011 (“the PFR”); and/or
    - (b) Principles 6 and 7 of the SRA Principles 2011.
  - 1.2 Between 25 November 2019 and February 2020, in breach of all or alternatively any of the following:
    - (a) Regulation 10.1 of the SRA Authorisation of Individuals Regulations 2019;
    - (b) Rule 5.1 of the SRA Authorisation of Firms Rules 2019; and/or
    - (c) Principle 2 of the SRA Principles 2019.
2. Between 27 June 2017 and 10 November 2019, Ms Schwab failed to:
  - 2.1 Nominate a money laundering reporting officer, as required by Regulation 21(3) of the Money Laundering Regulations 2017;
  - 2.2 Nominate a money laundering compliance officer, as required by Regulation 21(1)(a) of the Money Laundering Regulations 2017; and
  - 2.3 Seek SRA approval for either herself or Mr Adrian Schwab as either beneficial owners, managers or officers, as required by Regulation 26(1) of the Money Laundering Regulations 2017 and in doing so breached Outcome 7.5 of the Code of Conduct 2011.
3. Ms Schwab operated a client bank account in a name other than that of a sole practitioner or firm recognised by the SRA:
  - 3.1 Between 12 June 2015 and 24 November 2019, in breach of all or alternatively any of the following: (a) Rule 13.3 of the Accounts Rules 2011; and/or (b) Outcome 7.4 of the Code of Conduct 2011; and/or (c) Principle 10 of the SRA Principles 2011.

- 3.2 Between 25 November 2019 and 28 February 2020, in breach of all or alternatively any of the following: (a) Rule 3.2 of the Accounts Rules 2019; and/or (b) Code 4.2 of the Code of Conduct for Solicitors, RELs and RFLs 2019.
4. Between 4 December 2017 and 22 January 2019, Ms Schwab posted inaccurate and/or misleading information on the Firm's Facebook page in that she created the following posts which suggested that she, the Firm or Adrian Schwab had represented the client in court when they had not done so:
- (a) "Great result at Cambridge Magistrates Court! So pleased and proud to be able to represent our client, who eventually managed to prove her innocence!!!";
  - (b) "Double win today! Watford Family Court – successfully fought and suspended a prohibited steps order preventing a mother to leave the jurisdiction with the children. Milton Keynes County Court – successfully defended a set-aside application. The other party banned from making any further applications. Well done Irina Schwab and Adrian Schwab!";
  - (c) "Colchester County Court, 2nd January 2018. Successful eviction hearing on behalf of a landlord by Schwab & Co"; and
  - (d) "And another great result in Romford County Court by Adrian Schwab – a successful "set aside" application for a client who realised too late that he had a CCJ against him"

and by reason of the matters set out at 4(a) to 4(d) above, or any of them, breached Principles 2 and 6 of the SRA Principles 2011.

## **Documents**

5. The Tribunal had before it the following documents:-
- Rule 12 Statement and Exhibits dated 13 October 2021
  - Respondent's Answer and Exhibits dated 18 November 2021
  - Statement of Agreed Facts and Outcome dated 10 January 2022

## **Background**

6. Ms Schwab is a solicitor, having been admitted to the Roll in 2016. She held an unconditional Practising Certificate. At all material times, Ms Schwab and her husband were the two directors of the Firm. The allegations against Ms Schwab arose from two principal areas of concern: (i) what would appear to be a lack of understanding on Ms Schwab's part as to the regulatory requirements to practise as a solicitor; and (ii) an apparent attempt to create a misleading impression of the Firm's practice through social media posts.

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

7. The parties invited the Tribunal to deal with the Allegations against Ms Schwab in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment.

The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

### **Findings of Fact and Law**

8. The Applicant was required to prove the allegations 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 have 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.
9. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.
10. The Tribunal considered the Guidance Note on Sanction (9<sup>th</sup> Edition – December 2021). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Tribunal noted that Ms Schwab's failure to comply with her regulatory obligations was the result of her lack of awareness of the requirements, rather than a deliberate and conscious decision to avoid regulatory oversight. As a result of her non-compliance, she had placed client monies at risk, as they were not protected by the Compensation Fund. Further, Ms Schwab had created misleading social media posts about the activities of the Firm.
11. The parties had proposed that a fine in the sum of £15,001 with restrictions was an appropriate sanction. The Tribunal considered that the proposed sanction did not adequately reflect the seriousness of the Respondent's admitted misconduct. The Tribunal considered that the protection of the public and the reputation of the profession required that the Respondent should be immediately removed from practice. The parties addressed the Tribunal as to the appropriateness of a financial penalty. Having heard those submissions, the Tribunal remained of the view that the Respondent's conduct was such that she should be immediately removed from practice.
12. The parties applied to amend the Agreed Outcome document such that the proposed sanction was for an immediate suspension for 6 months, with restrictions on the Respondent's practice for two years thereafter. The Tribunal considered that the proposed sanction reflected the seriousness of the Respondent's misconduct and adequately protected the public and the reputation of the profession. Accordingly, the Tribunal approved the proposed sanction of a suspension with restrictions.
13. As regards the restrictions, the parties submitted, and the Tribunal found that it was appropriate to restrict Ms Schwab's ability to own/manage a firm or take on any compliance officer roles. The parties had agreed that Ms Schwab be restricted, for a period of two years, following the expiry of her suspension from (i) practising as a sole practitioner, owner or manager of a firm; and (ii) holding any of the positions of COLP, COFA, MLRO and MLCO. The Tribunal considered that such restrictions, for the agreed period, were necessary for the protection of the public and the reputation of the profession given the nature of Ms Schwab's misconduct.

## Costs

14. The parties agreed that Ms Schwab pay costs in the sum of £15,000.00. The Tribunal considered the amount to be appropriate and reasonable in the circumstances. Accordingly, the Tribunal ordered Ms Schwab to pay costs in the agreed sum.

## 15. Statement of Full Order

1. The Tribunal Ordered that the Respondent, IRINA MAGDALENA SCHWAB, solicitor, be suspended from practice for the period of 6 months to commence on the 13<sup>th</sup> day of January 2022 and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £15,000.00.

2. Upon the expiry of the fixed term of suspension referred to above, the Respondent shall be subject to conditions imposed by the Tribunal for the period of two years as follows:

2.1 The Respondent may not:

2.1.1 Practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body; or as a freelance solicitor; or as a solicitor in an unregulated organisation;

2.1.2 Be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body;

2.1.3 Be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration; or a Money Laundering Reporting Officer or a Money Laundering Compliance Officer.

Dated this 20<sup>th</sup> day of January 2022

On behalf of the Tribunal



A Kellett  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**20 JAN 2022**

**BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL**

**Case No:**

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

**AND IN THE MATTER OF:**

**SOLICITORS REGULATION AUTHORITY LIMITED**

**Applicant**

**and**

**IRINA MAGDALENA SCHWAB**

**Respondent**

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**STATEMENT OF AGREED FACTS AND OUTCOME**

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**Introduction**

1. By a statement made by Mark Rogers on behalf of the Solicitors Regulatory Authority Limited (“the SRA”) pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019, dated 13 October 2021, the SRA brought proceedings before the Tribunal making allegations of professional misconduct against the Respondent. Definition and abbreviations used herein are those set out in the Rule 12 Statement. The Tribunal made standard directions on 20 October 2021. There is a substantive hearing listed for 19 - 20 January 2022.
2. The Respondent is prepared to make admissions to all Allegations in the Rule 12 Statement, as set out in this document.

**Admissions**

3. The Respondent admits that she:

1. Practised as a solicitor through the firm of Schwab & Co Legal Services Ltd (Schwab & Co) (“the Firm”), when neither she nor the Firm had been authorised to do so by the SRA:

1.1. Between April 2015 and 24 November 2019, in breach of all or alternatively any of the following:

- (a) Rule 1.1 and Rule 10.1 of the SRA Practice Framework Rules 2011 (“the PFR”); and/or
- (b) Principles 6 and 7 of the SRA Principles 2011.

1.2. Between 25 November 2019 and February 2020, in breach of all or alternatively any of the following:

- (a) Regulation 10.1 of the SRA Authorisation of Individuals Regulations 2019;
- (b) Rule 5.1 of the SRA Authorisation of Firms Rules 2019; and/or
- (c) Principle 2 of the SRA Principles 2019.

2. Between 27 June 2017 and 10 November 2019, failed to:

- 2.1. Nominate a money laundering reporting officer, as required by Regulation 21(3) of the Money Laundering Regulations 2017;
- 2.2. Nominate a money laundering compliance officer, as required by Regulation 21(1)(a) of the Money Laundering Regulations 2017; and
- 2.3. Seek SRA approval for either herself or Mr Adrian Schwab as either beneficial owners, managers or officers, as required by Regulation 26(1) of the Money Laundering Regulations 2017

and in doing so breached Outcome 7.5 of the Code of Conduct 2011

3. Operated a client bank account in a name other than that of a sole practitioner or firm recognised by the SRA:

3.1. Between 12 June 2015 and 24 November 2019, in breach of all or alternatively any of the following:

- (a) Rule 13.3 of the Accounts Rules 2011; and/or
- (b) Outcome 7.4 of the Code of Conduct 2011; and/or
- (c) Principle 10 of the SRA Principles 2011

- 3.2. Between 25 November 2019 and 28 February 2020, in breach of all or alternatively any of the following:
- (a) Rule 3.2 of the Accounts Rules 2019; and/or
  - (b) Code 4.2 of the Code of Conduct for Solicitors, RELs and RFLs 2019
4. Between 4 December 2017 and 22 January 2019, posted inaccurate and/or misleading information on the Firm's Facebook page in that she created the following posts which suggested that she, the Firm or Adrian Schwab had represented the client in court when they had not done so:
- (a) *"Great result at Cambridge Magistrates Court! So pleased and proud to be able to represent our client, who eventually managed to prove her innocence!!!";*
  - (b) *"Double win today! Watford Family Court – successfully fought and suspended a prohibited steps order preventing a mother to leave the jurisdiction with the children. Milton Keynes County Court – successfully defended a set-aside application. The other party banned from making any further applications. Well done Irina Schwab and Adrian Schwab!";*
  - (c) *"Colchester County Court, 2nd January 2018. Successful eviction hearing on behalf of a landlord by Schwab & Co";* and
  - (d) *"And another great result in Romford County Court by Adrian Schwab – a successful "set aside" application for a client who realised too late that he had a CCJ against him"*

and by reason of the matters set out at 4(a) to 4(d) above, or any of them, breached Principles 2 and 6 of the SRA Principles 2011.

### **Agreed Facts**

4. The Respondent is a solicitor (SRA ID: 610356), holding a Practising Certificate free of conditions, having been admitted to the Roll on 1 June 2016. At the time of these Allegations, the Respondent and her husband (Mr Adrian Schwab) were the two directors of Schwab & Co Legal Services Ltd ("the Firm"). The Respondent was the sole shareholder.



### *Respondent's Application for Authorisation*

5. On 30 September 2019, the Respondent submitted an FA1; an application form for firm authorisation to the SRA. This application form sought authorisation for "Schwab & Co Solicitors" as a recognised body. Significantly, this application was marked to suggest it was an existing authorised body changing its legal entity or identity at law, and the name of the current firm was given as "Existing solicitor (sole practitioner)". The Respondent provided her own personal SRA number in support of this application and indicated that she was a director at "Schwab & Co Solicitors."
6. Section 1.8 of this application form indicated that Schwab & Co Solicitors had been incorporated since 10 April 2015 and in section 1.15 the turnover figure for the last complete accounting period was provided as £36,692.
7. The Respondent was proposed as the Compliance Officer for Legal Practice ("COLP"), as well as the Compliance Officer for Finance and Administration ("COFA").
8. In section 4, the Respondent provided the following breakdown of areas of work it was intended the Applicant would be undertaking:
  - 8.1. Criminal – 35%;
  - 8.2. Family/matrimonial – 15%;
  - 8.3. Immigration – 10%;
  - 8.4. Children – 10%;
  - 8.5. Consumer – 5%;
  - 8.6. Employment – 5%;
  - 8.7. Landlord and tenant (commercial and domestic) – 5%;
  - 8.8. Litigation – 5%;
  - 8.9. Property – commercial – 5%; and
  - 8.10. Will, trusts and tax planning – 5%
9. Section 5 of this form required the Respondent to provide information about professional indemnity insurance. The insurance certificate (in force at the time of the application) was provided. The SRA have since obtained the details provided in support of this insurance application. These details, signed by the Respondent, indicate that the Firm's practice breakdown for the last completed financial period was as follows:
  - 9.1. Criminal Law – 23%;
  - 9.2. Immigration – 15%;
  - 9.3. Litigation (other) – 14%;
  - 9.4. Matrimonial – 13%;
  - 9.5. Non-litigious work – 12%;
  - 9.6. Other (business development) – 7%;

- 9.7. Employment – non-contentious – 5%;
  - 9.8. Conveyancing – commercial – 5%;
  - 9.9. Landlord and tenant – 3%; and
  - 9.10. Wills, Trusts & Probate – 3%
10. In section 6, it was confirmed that the Applicant or an individual within the organisation would hold or receive client money.
  11. No application had been submitted to the SRA for registration of either the Respondent as a sole practitioner, or for the Firm as a recognised body, prior to this 30 September 2019 application.
  12. The 30 September 2019 application was not received by the SRA until 22 October 2019. The SRA replied with its 2 November 2019 letter, seeking further information about the Respondent and Schwab & Co Solicitors.
  13. The Respondent replied to the 2 November 2019 letter with an 11 November 2019 e-mail to the SRA, sent from the office@schwablegal.co.uk e-mail address. The attachments provided with this e-mail included:
    - 13.1. A copy of the Respondent's CV;
    - 13.2. A document entitled "Standard Terms and Conditions and Client Care Information (Non-Contentious Matters)";
    - 13.3. A document entitled "Client Care and Terms of Business";
    - 13.4. An 8 November 2019 letter to the SRA; and
    - 13.5. An FA10; an Anti-Money Laundering Authorisation Form.

#### *The Respondent's CV*

14. The copy of the CV provided with the 11 November 2019 e-mail sets out in the "Employment history" section that the Respondent had worked at "Schwab & Co Legal Services" as a sole practitioner from April 2015 to the present day. The practice areas are identified as including:
  - 14.1. Land Law & Property Law;
  - 14.2. Family Law / Divorce;
  - 14.3. Criminal Law;
  - 14.4. Wills and Probate;
  - 14.5. Contract Law; and
  - 14.6. Employment Law

15. The Respondent's practice, as described in her CV, appears to suggest that she has been undertaking reserved legal activities, as defined by section 12 of the Legal Services Act 2007.

*"Standard Terms and Conditions and Client Care Information" Document*

16. This document would appear to be a standard terms and conditions document intended for clients. This document held out the Respondent as both the COLP and COFA for the Firm, despite the first attempt to register any individual in these roles only being contained within the 30 September 2019 application.

*"Client Care and Terms of Business" Document*

17. This document specified two separate bank accounts at Barclays Bank for "Schwab & Co Legal Services"; one identified as "Firm account" (Sort Code 20-03-18, Account Number 83006042) and one identified as "Client account" (Sort Code 20-03-18, Account Number 63066347).

18. In paragraph 5 of this document, the following assertion was made:

*"We are regulated and authorised by the Solicitors Regulation Authority."*

*8 November 2019 letter*

19. The 8 November 2019 letter to the SRA provided further information on the work conducted by the Respondent as a solicitor at the Firm, which again included reference to the undertaking of reserved legal activities. Reference was made by the Respondent to a discussion she had at the SRA stand at LegalEx at London Olympia, following which she made the decision to register the Firm as a regulated body.

20. The footer of this document contained the assertion:

*"Irina Schwab is a CILEx and SRA registered and authorised practitioner"*

21. This same assertion can also be found within the footer of what would appear to be a sample letter of engagement that was provided with the 11 November 2019 e-mail and also the "Standard Terms and Conditions" document.

22. The final paragraph of this letter contains an acknowledgement from the Respondent that she needs to be registered under the Money Laundering Regulations and indicates that a completed FA10 is attached.

#### *The FA10*

23. The Anti-Money Laundering Authorisation Form submitted with the 11 November 2019 e-mail sought to register the Respondent as both the Money Laundering Reporting Officer and the Money Laundering Compliance Officer for the Firm. This form also sought approval of both the Respondent and Mr Adrian Schwab as either manager, beneficial owner or officer of the firm.
24. This was the first attempt by either the Respondent or the Firm to register a Money Laundering Reporting Officer, a Money Laundering Compliance Officer, or seek approval of the managers, beneficial owners or officers of the firm.

#### *Facebook posts*

25. As part of the SRA's enquiries into the Respondent and the Firm, as part of its consideration of the 30 September 2019 application, the Firm's Facebook page and website were inspected.
26. A print-out was obtained of the Firm's posts on Facebook, spanning from 24 May 2016 to 3 December 2019. These posts suggested that either the Respondent, the Firm or its employees were acting for clients in proceedings taking place in the civil, family and criminal courts.
27. The majority of these posts are clearly intended to give the reader the impression that a positive outcome was obtained for a client by either the Respondent, the Firm or its employees, without making that express assertion. An example of such a post is dated 25 January 2019, includes a photo of the entrance of Basildon Magistrates' Court, and reads:  
  

*"And...we finish the week with a 'successful visit' to Basildon Magistrates Court".*
28. Four posts, though, do contain an express assertion of involvement on the part of the Respondent, Firm or its employees in terms of the outcome obtained. The four posts in question are as follows:

<u>Date of Post</u>	<u>Content</u>
22.1.19	<i>“Great result at Cambridge Magistrates Court! So pleased and proud to be able to represent our client, who eventually managed to prove her innocence!!!”</i>
22.10.18	<i>“Double win today! Watford Family Court – successfully fought and suspended a prohibited steps order preventing a mother to leave the jurisdiction with the children. Milton Keynes County Court – successfully defended a set-aside application. The other party banned from making any further applications. Well done Irina Schwab and Adrian Schwab!”</i>
03.1.18	<i>“Colchester County Court, 2<sup>nd</sup> January 2018. Successful eviction hearing on behalf of a landlord by Schwab &amp; Co”</i>
4.12.17	<i>“And another great result in Romford County Court by Adrian Schwab – a successful “set aside” application for a client who realised too late that he had a CCJ against him”</i>

29. All four of the posts referred to above are accompanied by photographs of what would appear to be court buildings.

30. Pages obtained from the Firm’s website contained the following assertions:

30.1. *“Our lawyers give clear and cost-effective advice to clients. We pay close attention to instructions and give carefully considered advice”* and

30.2. *“Irina has now opened her own legal practice in Aylesbury town centre working with associate lawyers and solicitors to offer the full range of legal services and advice to all private and commercial clients as well as Parish councils. The Schwab & Co practice calls on specialist lawyers from different legal disciplines to offer advice on all areas of law”*

*Further correspondence*

31. On 6 February 2020, the Respondent sent an e-mail to the SRA in which she stated that:

- 31.1. All reserved legal activities had ceased, specifically court appearances and litigation work; and
  - 31.2. The Firm's website had been taken down and associated marketing of legal services had stopped.
32. The SRA responded via e-mail on 14 February 2020, indicating that the Respondent's 30 September 2019 application, and the information supplied in support of it, had raised concerns about the Respondent's practice and her understanding of the regulatory requirements. Attached to this e-mail was a letter, setting out those regulatory concerns, which included:
  - 32.1. That the Respondent had been providing legal services, either through a company or on her own account, since 2015, without SRA authorisation;
  - 32.2. That the Respondent had been holding client money for clients without the proper authorisation.
33. The Respondent replied to this 14 February 2020 communication with a request to withdraw the application for registration.

#### SRA's Investigation

34. Following notice being given to the Firm, the SRA commenced its investigation into the Respondent and the Firm's practice on 10 March 2020 at the Firm's offices in Aylesbury. This investigation was led by the Forensic Investigation Officer ("FIO").

#### *Client Bank Account*

35. The Firm held a client bank account, with an account number ending 6347. Statements were obtained for this account, covering the period 12 June 2015 through to 10 March 2020.
36. The highest client account balance shown by these statements is seen for the period 9 November 2017 to 24 November 2017, during which time the account balance stood at £87,856.93.
37. On 12 March 2020, the FIO sent to the Respondent a number of queries. A response was received from solicitors acting on behalf of the Respondent on 27 March 2020. The

following response was given in answer to the question, “Are you authorised to hold and transact client money, please explain?”:

*“I do not know, I simply assumed that if I hold such a bank account, then the client money can be held and transacted through that account. This was explained to [the SRA] and as far as I know, it was a condition for registration. I declared I held a client account on all applications, whether for authorisation or for insurance purposes.”*

38. On 31 March 2020, the FIO, along with a colleague, conducted an interview via Skype with the Respondent. The Respondent was assisted by her legal representative during this interview.
39. The Respondent informed the interviewers that she was quite confident with her knowledge of the SRA’s Accounts Rules, but prior to her practice with the Firm, she had not previously worked in a firm which operated a client bank account. She confirmed that she had been receiving client funds in the client bank account since 12 June 2015.
40. It was put to the Respondent in the interview that as the Firm was not regulated, the client account would also not be regulated. This meant that the client funds in that account would not be protected by the Compensation Fund. The Respondent was asked if she had informed her clients that their funds were being placed in an unregulated account and she responded:

*“No, I wouldn’t say that to them because I wouldn’t know it’s unregulated. I thought the client account would be the same whether it’s a builder opening a client account or somebody who has a client account, that means some money belonging to the client.”*

41. During the course of the interview, the Respondent acknowledged that at the time she had not appreciated that she was doing anything wrong by operating a client bank account when neither she nor the Firm were authorised by the SRA. It was her belief that she was in fact doing the best thing for her clients by establishing a client bank account. However, she confirmed that since her involvement with the SRA regulatory process in 2019 she understood that in order to operate a client account properly, either she (as a sole practitioner) or the Firm would need to be regulated by the SRA.

### *Money Laundering Regulations*

42. The 12 March 2020 queries sent to the Respondent by the FIO included the following question:

*“You have been providing legal services to clients and transacting funds through your client bank account. Has Schwab & Co Legal Services been authorised to conduct work which falls within the regulated sector under the money laundering regulations for any period?”*

43. The Respondent’s reply to this question was as follows:

*“I honestly believed that as a solicitor, I am auto-authorised. When you raised that concern, I read about the system for obtaining separate authorisation.”*

44. In the 31 March 2020 interview, the Respondent confirmed that she had never previously been an approved Money Laundering Reporting Officer, and until her contact with the SRA in 2019, she was not aware of the requirements under the Money Laundering Regulations 2017.

#### *Practising as a Solicitor*

45. The 12 March 2020 queries from the FIO included a request to the Respondent to identify the matters in which she had exercised rights of audience. Her response identified five separate cases, running from 20 June 2018 to 30 January 2020. This form also provided information for three cases in which Mr Adrian Schwab had assisted.

46. The Respondent was also asked to identify whether or not Schwab & Co Ltd had acted in any litigation matters. The Respondent’s reply identified seven separate companies for which representation had been provided in relation to leases. She also went onto state:

*“All family matters which were open, and where I assisted clients with completing a C100 have been returned to the respective clients, mentioning that I can no longer help them and that they should seek representation as soon as practically possible.”*

47. On 27 March 2020, the FIO was provided with a list of all matters conducted by Schwab & Co by the Respondent’s legal representative. This list covers 911 separate matters, from 6 November 2015 through to 14 March 2020, and identifies the following matter types: statutory declarations, personal injury, criminal, family, administrative, business, immigration, POCA, conveyance (Purchase), civil litigation and commercial.

48. The FIO obtained case papers relating to a number of the matters in which the Respondent and/or the Firm had acted, and provided information on an example four cases where it could be seen that the Respondent was practising as a solicitor through the Firm.



### *Example 1*

49. The first of those was the representation provided to Firm A in the lease of Property A. In this matter, the Firm had provided reserved instrument activities to their client by completing and submitting an application to HM Land Registry. "Schwab & Co Legal Services" were identified as the tenant's solicitors in the "Heads of Terms" document. The Respondent acted as witness in the execution of a deed in this matter, as her name and occupation as solicitor appears on the document. The 10 April 2019 Application to change the register (AP1) submitted to HM Land Registry is signed by the Respondent and the Firm's name is given as the sender of the application.

### *Example 2*

50. The second case is the Firm's involvement in the purchase of freehold land for £80,000 by Council B. In this case, the Firm had provided reserved instrument activities by completing and submitting applications to HM Land Registry. The Firm's invoice to Council B, signed by the Respondent suggests that the Council were billed £857.37 (including search fees) for this work.

### *Example 3*

51. The third case relates to the representation provided to Client C in his criminal case of dangerous driving. Client C was charged £609 for this representation. This was one of the five cases in which the Respondent had identified that she had exercised rights of audience. The "Standard Terms and Conditions" document is signed by Client C and contains the incorrect assertions that:

51.1. The Respondent was SRA registered and an authorised practitioner; and

51.2. The Firm was regulated by the SRA.

52. The Respondent made written representations to the Crown Prosecution Service on Client C's behalf on 5 November 2019. This letter also contained the incorrect footer referred to at paragraph 20 above.

### *Example 4*

53. The fourth and final case for which paperwork was obtained relates to the services provided to Client D. The 6 July 2019 letter from the Respondent to this Client

summarises the advice given and the fact that a court hearing was scheduled to take place at Barnet Family Court on 7 November 2019. Client D was charged £300 for the services he received from the Respondent and the Firm.

54. In the 31 March 2020 interview, the Respondent confirmed that she had been practising as solicitor, including providing reserved legal activities, through the Firm. The Respondent indicated that she was not aware that she had done anything wrong until the SRA started asking questions after the submission of her 30 September 2019 application. The Respondent expressly stated that she was not aware of the requirements to practice either as (i) a registered sole practitioner; or (ii) through an authorised body.

### *Facebook Posts*

55. Questions relating to posts on the Firm's Facebook page were put to the Respondent during the 31 March 2020 interview. In the course of the discussion about the Firm's Facebook page, the Respondent confirmed that she was the only individual who operated the page.

56. The FIO questioned the Respondent about the apparent discrepancies between the posts on the Facebook page and the list of cases in which rights of audience were exercised, provided on 27 March 2020. The Respondent said of the Facebook posts:

*"Yeah, it's probably marketing or going there for other purposes and erm or visiting and it's just pure marketing"*

57. The Respondent continued when asked by the FIO if the Facebook posts should be taken at face value or if some of them were incorrect:

*"They are incorrect, they are marketing like showing off if you want – that – well I'm, I'm doing some sort of activity and I'm being active."*

58. One of the four posts that are dealt with in Allegation 4 was expressly put to the Respondent in the course of this interview, namely the Colchester County Court post from 3 January 2018. The Respondent was asked to confirm if she was saying that she had not attended court and had not been a part of that hearing. She replied:

*"That's right. I wasn't there. You can check with the court"*

59. It was put to the Respondent that some of the posts on the Firm's Facebook page could be seen as misleading, if it related to an occasion when neither she nor another

representative from the Firm had attended court. The Respondent acknowledged this was the case, stating:

*“Yeah, could be, could be viewed like that yes, you’re right”*

### **The Respondent’s position during the investigation**

60. The Respondent’s account in her 31 March 2020 interview was that her non-compliance with the regulatory regime was borne out of a lack of understanding, rather than an attempt to mislead her regulator, or conceal matters from them.
61. During the SRA investigation, the Respondent provided a chronology document which identifies occasions in 2019 when she sought clarification and assistance as to what was required of her and the Firm in order to meet the SRA’s regulatory requirements.
62. The Respondent’s response to the Notice recommending referral to the SDT, dated 16 April 2021 repeats these assertions.

### **The Applicant’s position**

63. From the point at which the Respondent started practising through the Firm (April 2015) up until 24 November 2019, the SRA’s PFRs 2011 were in force.
64. By virtue of Rule 1.1 and 10.1 of these Rules, and considering the nature of the Respondent’s practice, she was required to register either herself as a sole practitioner of a recognised sole practice or the Firm as an authorised body.
65. Those same requirements continued from 25 November 2019, but this time under Regulation 10.1 of the SRA Authorisation of Individuals Regulations 2019 and Rule 5.1 of the SRA Authorisation of Firms Rules 2011 (in relation to the carrying out reserved legal activities).
66. As set out above, no attempt was made by the Respondent to register either herself or the Firm until the submission of the 30 September 2019 application. By this point, of course, the Respondent had been practising as a solicitor in breach of these regulatory requirements for slightly more than four years. Furthermore, the documents provided by the Respondent suggest that 911 matters could have been handled by the Respondent and/or the Firm in that time.

67. It follows logically from the Respondent's failure to register either as a recognised sole practice or the Firm as an authorised body that no COLP or COFA were ever registered with the SRA, despite documents emanating from the Firm suggesting otherwise.
68. Whilst it is acknowledged that the failure to register either as a sole practitioner or the Firm itself most likely arises from the Respondent's lack of awareness of the regulatory requirements, rather than any attempt to avoid SRA scrutiny, it is submitted that such a lack of understanding from a practising solicitor is liable to damage the public's confidence in the profession.
69. Principle 7 of the SRA Principles 2011 placed upon solicitors an obligation to comply with their regulatory requirements.
70. Following the coming into force of the Money Laundering Regulations 2017 on 26 June 2017, by virtue of the nature of her practice, the Respondent was required to:
  - 70.1. Nominate a money laundering reporting officer, pursuant to Regulation 21(3);
  - 70.2. Nominate a money laundering compliance officer, pursuant to Regulation 21(1)(a); and
  - 70.3. Seek approval from the SRA for any beneficial owners, managers or officers, pursuant to Regulation 26(1)
71. There was no attempt made by the Respondent to provide these nominations or seek SRA approval until the submission of the FA10 as an attachment to the 11 November 2019 e-mail to the SRA.
72. Again, it is acknowledged that the failure to comply with the regulatory regime of the Money Laundering Regulations 2017 most likely arises not from an intention to conceal matters, but rather from a lack of understanding on the part of the Respondent as to her regulatory and compliance obligations.
73. Notwithstanding the apparent reason for the non-compliance with these requirements, by failing to nominate the two separate officers required by the Money Laundering Regulations 2017 and obtain SRA approval for individuals holding certain positions within the Firm, the Respondent failed to obtain Outcome 7.5 of the 2011 Code of Conduct, namely the requirement to comply with anti-money laundering legislation.
74. Rule 13.3 of the SRA Accounts Rules 2011 requires that a client account is held in the same name as that of either the sole practitioner or practice registered with the SRA. As set out in Allegation 1, as neither the Respondent nor the Firm were so registered with the SRA, it follows that the Respondent's client bank account could not have complied with Rule 13.3.

75. The requirements of Rule 13.3 of the 2011 Rules are mirrored in Rule 3.2 of the SRA Accounts Rules 2019; applicable to the post-25 November 2019 conduct.
76. The failure to maintain a properly registered client account could have put client funds in jeopardy. As set out during the Respondent's 31 March 2020 interview, client funds in this account would not have benefitted from the protection of the Compensation Fund.
77. The Respondent confirmed in the 31 March 2020 interview that she was the sole operator of the Firm's Facebook page and that a number of these posts were simply incorrect marketing. There is a clear discrepancy between the extent to which the Firm's Facebook posts suggest that Respondent and/or the Firm has represented clients in court and the small number of cases listed on the form provided to the SRA.
78. The majority of the Facebook posts appear to be designed to give the impression that the Respondent, the Firm and/or its employees has played a meaningful part in achieving a successful outcome in court for the clients. The majority, however, fall short of making an express assertion that the result was obtained by the Respondent, the Firm and/or its employees. The four posts in Allegation 4, though, do go so far as to make such an express assertion.
79. These four posts contain inaccurate and/or misleading information in that they suggest that either the Respondent, the Firm and/or Adrian Schwab represented clients in court on occasions when they did not. As indicated above, the Respondent appears to have accepted in her 31 March 2020 interview that such claims would have been inaccurate.
80. The posting of inaccurate and/or misleading information in these circumstances; in circumstances where it would seem the intention was to create an impression that the Firm was more active than in fact it was indicates a lack of integrity on the part of the Respondent.
81. Furthermore, conduct of this nature amounts to a breach by the Respondent of the requirement to behave in a way which maintains the trust placed by the public in them and in the provision of legal services.

### **Mitigation**

82. The following points are advanced by way of mitigation on behalf of the Respondent, but their inclusion in this document does not amount to adoption or endorsement of such points by the SRA:

- 82.1. The Respondent offers her sincere, and genuine, apology for the identified, and to her credit, admitted breaches, as particularised in the allegations. The Respondent did not do anything, knowingly or deliberately, in breach of the Rules and Guidance issued by the SRA and, indeed, as will be noted from the allegations, it is not alleged that she acted knowingly or deliberately.
- 82.2. The SRA investigation, and subsequent proceedings before the Tribunal, were triggered as a consequence of the Respondent's own application for registration of her firm as a regulated entity and, in the genuine belief, that in making such application to the SRA, she was acting appropriately, and in accordance with the Rules.
- 82.3. Other than the current proceedings, the Respondent is a person of impeccable, exemplary, and unblemished character, to date, with no adverse regulatory or disciplinary history.
- 82.4. It is a matter of considerable regret, and sadness, to the Respondent that as a consequence of her genuine misunderstandings, these proceedings will now adversely impact upon her previous good character and regulatory history.
- 82.5. The Respondent is saddened, and disappointed, that having obtained advice from the SRA, and having been encouraged to apply for registration, and provided all relevant information, in an open and transparent manner, the SRA should choose to investigate the Respondent and, subsequently, commence proceedings before the Tribunal.
- 82.6. In making the above comments, the Respondent does not seek to abdicate her responsibility for the identified, and admitted, breaches, but rather to provide explanation and context to that which occurred.
- 82.7. The Respondent was employed for the Crown Prosecution Service for a period of approximately 10 years, during which time the Respondent was studying for, and successfully qualified, as a Chartered Legal Executive on 10 September 2013 and, subsequently, being admitted to the Roll of Solicitors on 2 June 2016. The qualification as a solicitor was a matter of immense pride to the Respondent and her family, and fulfilled a long held ambition, and justified the commitment on the part of the Respondent, having commenced her legal training in 2006 and having studied on a part-time basis, whilst working full time.
- 82.8. The Respondent left the employment of the CPS to assist her father who was, at the time, battling cancer, and to look after her sons, both of whom have special needs.

- 82.9. In summary, and by way of mitigation and explanation, rather than excuse, for that which occurred, the Respondent respectfully submits that she relied upon her regulatory body for support, assistance and guidance in relation to the registration process, and was allowed to continue with the registration process whilst evidence was being gathered against her.
- 82.10. The SRA accepts that which occurred was as a consequence of a lack of understanding on the part of the Respondent, at the relevant time. Paragraph 5 of the Rule 12 Statement states, amongst other things, "*These allegations arise from two principal areas of concern (i) what would appear to be a lack of understanding on the Respondent's part as to the regulatory requirements to practice as a solicitor*" (page A5).
- 82.11. Paragraph 32 of the Rule 12 Statement states, "*The Respondent's efforts to comply with the SRA's regulatory regime, and her contact with the SRA Authorisation Officer as a result, would seem to have improved her understanding of the process...*" (A10-A11).
- 82.12. Paragraph 67 of the Rule 12 Statement states, amongst other things, "*Whilst it is acknowledge that the failure to register either as a sole practitioner or the firm itself most likely arises from the Respondent's lack of awareness of the regulatory requirements, rather than an attempt to avoid SRA scrutiny...*" (A17).
- 82.13. Paragraph 72 of the Rule 12 Statement states, "*Again, it is acknowledged that the failure to comply with the regulatory regime of the Money Laundering Regulations 2017 most likely arises not from an intention to conceal matters, but rather from a lack of understanding on the part of the Respondent as to her regulatory and compliance obligations*" (A17).
- 82.14. Factors mitigating the seriousness of the identified breaches include, but are not limited to:
- The absence of any allegation of dishonesty, or deliberately, or knowingly, acting in breach of the identified Rules and Guidance.
  - The Respondent voluntarily notified the regulator of the facts and circumstances that gave rise to the subsequent allegations raised against the Respondent.
  - Genuine insight, as to her regulatory obligations and responsibilities.
  - Open and frank admissions at an early stage, and full co-operation with the SRA during the course of its investigation, and full co-operation following the issue of the SDT proceedings.

82.15. The Respondent is currently employed by OJN Solicitors and has been granted a Practising Certificate for the year 2021/2022 by the SRA, subject to the conditions set out below:

- The Respondent shall not act as a Manager or Owner of an authorised body.
- The Respondent shall not provide legal services as a freelance solicitor offering reserved or unreserved services on her own account under regulations 10.2(a) or (b) of the SRA Authorisation of Individuals Regulations.
- The Respondent may not act as a compliance officer for legal practice (COLP) or compliance officer for finance and administration (COFA) for any authorised bod.

82.16. To the extent that the Tribunal considers further controls are required for a period of time, the AO includes a Restriction Order, for a period of 2 years, prohibiting the Respondent from (i) practising as a sole practitioner, owner or manager of a firm; and (ii) holding any of the positions of COLP, COFA, MLRO and MLCO.

82.17. The Respondent repeats her sincere apology to the Tribunal for her inadvertent, but genuine, errors and misunderstandings, giving rise to the allegations, the subject of these proceedings, and which to the Respondent's credit, have been admitted at the earliest opportunity.

### **Agreed Outcome**

83. The Respondent agrees:

83.1. To be suspended from the Roll for a period of six months from the date of the Tribunal's Order;

83.2. To be subject to a Restriction Order, for two years, prohibiting the Respondent from (i) practising as a sole practitioner, owner or manager of a firm; and (ii) holding any of the positions of COLP, COFA, MLRO and MLCO to commence at the conclusion of the period of suspension; and

83.3. To pay costs to the SRA in the sum of £15,000.

84. The costs set out above take account of the Respondent's means.

85. The parties consider and submit that in light of the admissions set out above and taking due account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter, consistent with the Tribunal's Guidance Notes on Sanction 8<sup>th</sup> Edition.



86. It is agreed that:

- 86.1. Neither reprimand nor a fine is not sufficient, but neither the protection of the public nor the protection of the reputation of the profession justifies for the Respondent to be struck off the roll of solicitors;
- 86.2. Considering the factors described below, the seriousness of the misconduct and giving effect to the purpose of sanction, this case falls in a bracket in which a period of suspension is appropriate.
- 86.3. A Restriction Order, in the terms set out above, is necessary to ensure the protection of the public and the reputation of the legal profession from future harm by the Respondent.

87. In respect of the level of culpability:

- 87.1 The Respondent and her husband were the two directors of the Firm however the Respondent was the sole shareholder.
- 87.2. The Respondent started practising through the Firm in April 2016 up until 24 November 2019 and during this time, the SRAs Practice Framework Rules 2011 were in force. Under Rule 1.1 and 10.1 of these Rules, the Respondent was required to register either herself as a sole practitioner of a recognised practice or the Firm as an authorised body.
- 87.3. From 25 November 2019, pursuant to Regulation 10.1 of the SRA Authorisation of Individuals Regulations 2019 and Rule 5.1 of the SRA Authorisation of Firms Rules 2011, the same requirements continued.
- 87.4. No attempt was made by the Respondent to register either herself or the Firm until the submission of the 30 September 2019 application. By this point, the Respondent had been practising as a solicitor in breach of these regulatory requirements for just over four years.
- 87.5. On 26 June 2017, the Money Laundering Regulations 2017 came into force and by virtue of the nature of her practice, the Respondent was required to:
  - i. Nominate a money laundering reporting officer, pursuant to Regulation 21(3);
  - ii. Nominate a money laundering compliance officer, pursuant to Regulation 21(1)(a); and
  - iii. Seek approval from the SRA for any beneficial owners, managers or officers, pursuant to Regulation 26(1).

- 87.6. No attempt was made by the Respondent to provide these nominations or seek SRA approval until the submission of the FA10 as an attachment to the 11 November 2019 email.
- 87.7. Rule 13.3 of the SRA Accounts Rules 2011 requires that a client account is held in the same name as that of either the sole practitioner or practice registered with the SRA. As neither the Respondent nor the Firm were registered with the SRA, it follows that the Respondent's client bank account could not have complied with Rule 13.3.
- 87.8. In respect of the Facebook posts, the Respondent failed to act with integrity, i.e. with moral soundness, rectitude and steady adherence to an ethical code. In *Wingate v Solicitors Regulation Authority v Malins [2018] EWCA Civ 366*, it was said that integrity connotes adherence to the ethical standards of one's own profession.
- 87.9. The Respondent confirmed in the 31 March 2020 interview that she was the sole operator of the Firm's Facebook page and that a number of these posts were simply incorrect marketing. A solicitor acting with integrity would not have posted incorrect and/or misleading messages on social media, designed to give the impression that they and their firm had more business than they in fact did.
88. In respect of the level of harm:
- 88.1. Whilst it is acknowledged that the failure to register either as a sole practitioner or the Firm itself most likely arises from the Respondent's lack of awareness of the regulatory requirements, rather than any attempt to avoid SRA scrutiny, it is submitted that such a lack of understanding from a practising solicitor is liable to damage the public's confidence in the profession.
- 88.2. Similarly, it is acknowledged that the failure to comply with the regulatory regime of the Money Laundering Regulations 2017 most likely arises not from an intention to conceal matters, but from a lack of understanding on the part of the Respondent as to her regulatory and compliance obligations.
- 88.3. The failure to maintain a properly registered client account could have put client funds in jeopardy. Client funds in this account would not have benefitted from the protection of the Compensation Fund.
- 88.4. The majority of the Facebook posts appear to give the impression that the Respondent, the Firm and/or its employees had played a meaningful part in achieving a successful outcome in court for the clients when this was not the case. Public confidence in the Respondent, in solicitors and in the provision of

legal services is likely to be undermined by solicitors who act in the matter described.

89. In respect of mitigating features, the Respondent's mitigation is set out at paragraph 82 above. There is no evidence of dishonesty or the loss of client money, and the Respondent has cooperated fully with her regulator, the SRA.
90. The Parties consider that in light of the admissions set out above and taking due account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter which is in the public interest.

**Mark Rogers, Partner, Capsticks LLP**  
**On behalf of Solicitors Regulation Authority Limited**

**Date:**

**Irina Magdalena Schwab**

**Date: 18/01/2022**