

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12284-2021

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

NICOLA THOMPSON

First Respondent

RUTH ALISON LINDA RUSH

Second Respondent

---

Before:

Ms A Kellett (in the chair)

Mr A Ghosh

Dr A Richards

Date of Hearing: 3 March 2022

---

## **Appearances**

There were no appearances as the matter was dealt with on the papers.

---

## **JUDGMENT ON AN AGREED OUTCOME**

---

## Allegations

1. The allegations made against the First Respondent, Nicola Thompson made by the Solicitors Regulation Authority Ltd were that whilst practising as a Partner at Bottrills Solicitors LLP (“the Firm”):
  - 1.1 Between 25 April 2016 and 5 December 2017 she caused and/or allowed the client account to be overdrawn, in particular:
    - 1.1.1 between 19 August 2016 and 1 December 2017, she caused and/or allowed payments out of the client account in excess of the funds held for individual clients;
    - 1.1.2 between 1 May 2017 and 27 July 2017, she caused and/or allowed duplicate payments from the client account in relation to 17 client ledgers;
    - 1.1.3 between 25 April 2016 and 5 December 2017, she caused and/or allowed client funds to be held in the firm’s office account

and therefore breached any or all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 20.9 of the Solicitors Accounts Rules 2011.
  - 1.2 In relation to the shortages set out at Allegation 1.1, she caused and/or allowed the Firm to operate with a client account shortage from 25 April 2016 to 5 December 2017 and therefore breached any or all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 7 of the Solicitors Accounts Rules 2011.
  - 1.3 Between 31 March 2017 and 19 December 2017, she caused and/or allowed the operation of a client ledger account number ‘TRA0021’ named “Transfer Differences”, which she used to post client to office account transfers, totalling £129,648.80 that were not allocated to specific client matters and therefore breached any or all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 29.25 of the Solicitors Accounts Rules 2011.
  - 1.4 Between October 2016 and August 2017, she failed to comply with the SRA Accounts Rules 2011 in that she:
    - 1.4.1 Failed to ensure the Firm carried out client account reconciliations at least once every five weeks;
    - 1.4.2 Failed promptly to inform in writing, clients or any other person on whose behalf money was held, of the amount and reason for retaining client money at the end of the matter;

and therefore breached any or all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6, 14.4 and 29.12 of the Solicitors Accounts Rules 2011.
  - 1.5 She failed to report, or ensure that a report was made, to the SRA in respect of the following matters:

- 1.5.1 Each of the matters stated in Allegations 1.1.1 to 1.1.3;
  - 1.5.2 Each of the matters stated in Allegation 1.3;
  - 1.5.3 The improper payment of £327,000.000 into an incorrect third party account on or around 1 March 2018; and therefore she breached any or all of Principles 6 and 7 of the SRA Principles 2011; Outcomes 10.1 and 10.3 of the SRA Code of Conduct 2011 and Rule 8.5(e) of the SRA Authorisations Rules 2011.
2. The allegations made against the Second Respondent, Ruth Rush, who is not a solicitor, were that whilst a manager of the Firm (a recognised body) and practising as a Partner, failed to comply with the following rules applicable to them:
    - 2.1 Between 25 April 2016 and 5 December 2017, she caused and/or allowed the client account to be overdrawn, in particular:
      - 2.1.1 between 19 August 2016 and 1 December 2017, she caused and/or allowed payments out of the client account in excess of the funds held for individual clients;
      - 2.1.2 between 1 May 2017 and 27 July 2017, she caused and/or allowed duplicate payments from the client account in relation to 17 client ledgers;
      - 2.1.3 between 25 April 2016 and 5 December 2017, she caused and/or allowed client funds to be held in the firm's office account; and therefore breached any or all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 20.9 of the Solicitors Accounts Rules 2011.
    - 2.2 In relation to the shortages set out at Allegation 2.1.1 to 2.1.3, she caused and/or allowed the Firm to operate with a client account shortage from 25 April 2016 to 5 December 2017 and therefore breached any or all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 7 of the Solicitors Accounts Rules 2011.
    - 2.3 Between 31 March 2017 and 19 December 2017, she caused and/or allowed the operation of a client ledger account number 'TRA0021' named "Transfer Differences", which she used to post client to office account transfers, totalling £129,648.80 that were not allocated to specific client matters and therefore breached any or all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 29.25 of the Solicitors Accounts Rules 2011.
    - 2.4 Between October 2016 and August 2017, she failed to comply with the SRA Accounts Rules 2011 in that she:
      - 2.4.1 Failed to ensure the Firm carried out client account reconciliations at least once every five weeks;
      - 2.4.2 Failed promptly to inform in writing, clients or any other person on whose behalf money was held, of the amount and reason for retaining client money at the end of the matter;

and therefore breached any or all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6, 14.4 and 29.12 of the Solicitors Accounts Rules 2011.

2.5 She failed to report, or ensure that a report was made, to the SRA in respect of the following matters:

2.5.1 Each of the matters stated in Allegations 1.1.1 to 1.1.3;

2.5.2 Each of the matters stated in Allegation 1.3;

2.5.3 The improper payment of £327,000.000 into an incorrect third party account on or around 1 March 2018;

and therefore breached any or all of Principles 6 and 7 of the SRA Principles 2011; Outcomes 10.1 and 10.3 of the SRA Code of Conduct 2011 and Rule 8.5(c) of the SRA Authorisations Rules 2011.

### **Documents**

3. The Tribunal had before it the following documents:-

- Rule 12 Statement and Exhibit IWB1 dated 17 December 2021
- Ms Thompson's Answer dated 20 January 2022
- Ms Rush's Answer dated 17 January 2022
- Statement of Agreed Facts and Outcome dated 1 March 2022

### **Background**

4. Ms Thompson was admitted to the Roll of Solicitors in July 1999. She joined the Firm as an Equity Partner in September 2006 and left the Firm on 31 March 2019. Whilst the SRA records suggested that Ms Thompson was the Firm's Compliance Officer for Legal Practice (COLP) during the relevant period, Ms Thompson had confirmed that as far as she was concerned, she was in fact the Firm's Compliance Officer for Finance and Administration (COFA). Ms Thompson was also the Firm's Money Laundering Reporting Officer. Ms Thompson held an unconditional Practising Certificate.

5. Ms Rush is not a solicitor, but qualified as a Fellow of CILEX in 2008. In October 2012, she became an Equity Partner at the Firm. Whilst the SRA records suggested that Ms Rush was the Firm's COFA, Ms Rush had confirmed that as far as she was concerned, she was in fact the Firm's COLP.

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

6. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties submitted that the outcomes proposed were consistent with the Tribunal's Guidance Note on Sanctions.

## **Findings of Fact and Law**

7. 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 Respondents' rights to a fair trial and to respect for their private and family lives under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
8. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondents' admissions were properly made.
9. The Tribunal considered the Guidance Note on Sanction (9<sup>th</sup> Edition). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Tribunal noted that each of the Respondents were aware of the issues that had been caused by the Firm changing its accounting package, together with the issues highlighted by qualified Accountant's Report. However, neither Respondent resolved the problems until December 2017. Further, they had failed to report the accounting issues to the SRA as they were required to do. The Tribunal noted that the Respondents self-reported. It was the Respondents self-report that instigated the investigation. The Tribunal also accepted that the Respondents were not motivated by financial gain.
10. The Tribunal considered that in the circumstances, sanctions of No Order or a Reprimand did not adequately reflect the seriousness of the Respondents misconduct. The Tribunal considered that a financial penalty was the appropriate sanction for Ms Thompson. The Tribunal assessed her misconduct as falling within its Indicative Fine Band Level 3, having assessed the conduct as more serious. The Tribunal considered that a fine in the sum of £10,000 was appropriate and proportionate. Accordingly, the Tribunal approved the proposed sanction.
11. The Tribunal considered that the need to protect the public and the reputation of the profession was such that Ms Rush should be subject to regulatory control under Section 43 of the Solicitors Act 1974. The Tribunal considered that it was appropriate for Ms Rush to also pay a financial penalty in the sum of £7,501, having assessed her conduct as falling at the lower end of Fine Band Level 3. Accordingly, the Tribunal approved the proposed sanction.

## **Costs**

12. The parties agreed that each Respondent pay costs in the sum of £14,487.50. The Tribunal considered that the costs agreed were reasonable and proportionate. Accordingly, the Tribunal ordered the Respondents to pay costs in the agreed sums.

## **Statement of Full Order**

### Ms Thompson

13. The Tribunal ordered that the First Respondent, NICOLA THOMPSON, solicitor, do pay a fine of £10,000.00, such penalty to be forfeit to Her Majesty the Queen, and it

further ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £14,487.50.

14. The Tribunal further Ordered that Ms Thompson be subject to conditions imposed by the Tribunal as follows:
- 14.1 The Respondent may not:
- 14.1.1 Practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body;
- 14.1.2 Be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration;
- 14.1.3 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
- 14.2 There be liberty to either party to apply to the Tribunal to vary the conditions set out at paragraph 14.1 above.

#### Ms Rush

15. The Tribunal Ordered that the Second Respondent, RUTH ALISON LINDA RUSH, do pay a fine of £7,501.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that as from 03 March 2022 except in accordance with SRA permission:-
- (i) no solicitor shall employ or remunerate, in connection with the practice carried on by that solicitor Ruth Alison Linda Rush;
- (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Ruth Alison Linda Rush;
- (iii) no recognised body shall employ or remunerate the said Ruth Alison Linda Rush;
- (iv) no manager or employee of a recognised body shall employ or remunerate the said Ruth Alison Linda Rush in connection with the business of that body;
- (v) no recognised body or manager or employee of such a body shall permit the said Ruth Alison Linda Rush to be a manager of the body;
- (vi) no recognised body or manager or employee of such a body shall permit the said Ruth Alison Linda Rush to have an interest in the body;
- (vii) no recognised body or manager or employee of such a body shall permit the said Ruth Alison Linda Rush to be a Compliance Officer for Legal Practice or Compliance Officer for Finance and Administration;

16. And the Tribunal further Ordered that Ms Rush do pay the costs of and incidental to this application and enquiry fixed in the sum of £14,487.50.

Dated this 30<sup>th</sup> day of March 2022

On behalf of the Tribunal

A handwritten signature in black ink, appearing to read 'A Kellett', is written over a light grey rectangular background.

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**30 MAR 2022**

A Kellett  
Chair

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

**AND IN THE MATTER OF:**

**SOLICITORS REGULATION AUTHORITY LIMITED**

**Applicant**

**and**

**NICOLA THOMPSON (SRA ID: 32571)**

**First Respondent**

**and**

**RUTH RUSH (SRA ID: 472203)  
(Unadmitted)**

**Second Respondent**

---

---

**STATEMENT OF AGREED FACTS AND OUTCOME**

---

---

**Introduction**

1. By a statement made by Ian Brook on behalf of the Solicitors Regulation Authority (the "SRA") pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019 dated 17 December 2021, the SRA brings proceedings before the Tribunal making allegations of misconduct against the Respondents. Definitions and abbreviations used herein are those set out in the Rule 12 Statement. The Tribunal made Standard Directions on 21 December 2021. There is a substantive hearing listed for 30-31 March 2022.
2. By their Answers dated 20 January 2022 and 17 January 2022 respectively, the Respondents have admitted all the allegations in the Rule 12 Statement.

**Admissions**

3. The First Respondent, Nicola Thompson, admits that, whilst practising as a Partner at Bottrills Solicitors LLP ("the Firm"):



1.1. Between 25 April 2016 and 5 December 2017 she caused and/or allowed the client account to be overdrawn, in particular:

1.1.1. between 19 August 2016 and 1 December 2017, she caused and/or allowed payments out of the client account in excess of the funds held for individual clients;

1.1.2. between 1 May 2017 and 27 July 2017, she caused and/or allowed duplicate payments from the client account in relation to 17 client ledgers;

1.1.3. between 25 April 2016 and 5 December 2017, she caused and/or allowed client funds to be held in the firm's office account

and therefore breached all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 20.9 of the Solicitors Accounts Rules 2011.

1.2. In relation to the shortages set out at Allegation 1.1, she caused and/or allowed the Firm to operate with a client account shortage from 25 April 2016 to 5 December 2017 and therefore breached all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 7 of the Solicitors Accounts Rules 2011.

1.3. Between 31 March 2017 and 19 December 2017, she caused and/or allowed the operation of a client ledger account number 'TRA0021' named "Transfer Differences", which she used to post client to office account transfers, totalling £129,648.80 that were not allocated to specific client matters and therefore breached all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 29.25 of the Solicitors Accounts Rules 2011.

1.4. Between October 2016 and August 2017, she failed to comply with the SRA Accounts Rules 2011 in that she:

1.4.1. Failed to ensure the Firm carried out client account reconciliations at least once every five weeks;

1.4.2. Failed promptly to inform in writing, clients or any other person on whose behalf money was held, of the amount and reason for retaining client money at the end of the matter;

and therefore breached all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6, 14.4 and 29.12 of the Solicitors Accounts Rules 2011.

1.5. She failed to report, or ensure that a report was made, to the SRA in respect of the following matters:

1.5.1. Each of the matters stated in Allegations 1.1.1 to 1.1.3;

1.5.2. Each of the matters stated in Allegation 1.3;

1.5.3. The improper payment of £327,000.000 into an incorrect third party account on or around 1 March 2018;

and therefore she breached all of Principles 6 and 7 of the SRA Principles 2011; Outcomes 10.1 and 10.3 of the SRA Code of Conduct 2011 and Rule 8.5(e) of the SRA Authorisations Rules 2011.

4. The Second Respondent, Ruth Rush, who is not a solicitor, admits that whilst a manager of the Firm (a recognised body) and practising as a Partner, failed to comply with the following rules applicable to them:

1.6. Between 25 April 2016 and 5 December 2017, she caused and/or allowed the client account to be overdrawn, in particular:

1.6.1. Between 19 August and 1 December 2017, she caused and/or allowed payments out of the client account in excess of the funds held for individual clients;

1.6.2. Between 1 May and 27 July 2017, she caused and/or allowed duplicate payments from the client account in relation to 17 client ledgers;

1.6.3. Between 25 April 2016 and 5 December 2017, she caused and/or allowed client funds to be held in the firm's office account

and therefore breached all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 20.9 of the Solicitors Accounts Rules 2011.

1.7. In relation to the shortages set out at Allegation 2.1.1 to 2.1.3, she caused and/or allowed the Firm to operate with a client account shortage from 25 April 2016 to 5 December 2017 and therefore breached all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 7 of the Solicitors Accounts Rules 2011

1.8. Between 31 March 2017 and 19 December 2017, she caused and/or allowed the operation of a client ledger account number 'TRA0021' named "Transfer Differences", which she used to post client to office account transfers, totalling £129,648.80 that were not allocated to specific client matters and therefore breached all of Principles

6, 8 and 10 of the SRA Principles 2011 and Rules 6 and 29.25 of the Solicitors Accounts Rules 2011.

1.9. Between October 2016 and August 2017, she failed to comply with the SRA Accounts Rules 2011 in that she:

- 1.9.1. Failed to ensure the Firm carried out client account reconciliations at least once every five weeks;
- 1.9.2. Failed promptly to inform in writing, clients or any other person on whose behalf money was held, of the amount and reason for retaining client money at the end of the matter;

and therefore breached all of Principles 6, 8 and 10 of the SRA Principles 2011 and Rules 6, 14.4 and 29.12 of the Solicitors Accounts Rules 2011.

1.10. She failed to report, or ensure that a report was made, to the SRA in respect of the following matters:

- 1.10.1. Each of the matters stated in Allegations 1.1.1 to 1.1.3;
- 1.10.2. Each of the matters stated in Allegation 1.3;
- 1.10.3. The improper payment of £327,000.000 into an incorrect third party account on or around 1 March 2018;

and therefore breached all of Principles 6 and 7 of the SRA Principles 2011; Outcomes 10.1 and 10.3 of the SRA Code of Conduct 2011 and Rule 8.5(c) of the SRA Authorisations Rules 2011.

## **Agreed Facts**

- 5. The following facts and matters, which are relied upon by the SRA in support of the allegations are agreed between the SRA and each Respondent.

### *The Firm*

- 6. Bottrills Solicitors LLP (“the Firm”) (SRA ID: 627098) has been authorised by the SRA as a recognised body since 15 January 2016.

### *The First Respondent*

7. The First Respondent (SRA ID: 32571) was admitted to the Roll of Solicitors on 15 July 1999. She joined the Firm as an Equity Partner in September 2006 and left the Firm on 31 March 2019.
8. Whilst the SRA records suggest that the First Respondent was the Firm's Compliance Officer for Legal Practice (COLP) during the relevant period, the First Respondent has confirmed that as far as she was concerned, she was in fact the Firm's Compliance Officer for Finance and Administration (COFA).
9. The First Respondent was also the Firm's Money Laundering Reporting Officer.
10. The First Respondent currently holds a Practising Certificate, without conditions.

#### *The Second Respondent*

11. The Second Respondent (SRA ID: 477203), as previously indicated, is not a solicitor, but she qualified as a Fellow of CILEX in 2008. In October 2012, she became an Equity Partner at the Firm.
12. Whilst the SRA records suggest that the Second Respondent was the Firm's COFA, the Second Respondent has confirmed that as far as she was concerned, she was in fact the Firm's COLP.
13. As a manager of a recognised body, the Tribunal has jurisdiction to determine complaints against the Second Respondent under paragraph 16(1A) of Schedule 2 of the Administration of Justice Act 1985. Paragraph 18A of the same legislation affords the Tribunal a discretionary power to impose one or more of the following orders should the Tribunal determine that the Second Respondent has failed to comply with the relevant Principles, Codes and Rules:
  - 13.1. an order directing the payment by the Second Respondent of a penalty to be forfeited to Her Majesty;
  - 13.2. an order requiring the Solicitors Regulation Authority to consider taking such steps as the Tribunal may specify in relation to the relevant person;
  - 13.3. an order, under paragraph 18A(3), restricting the ability of the Second Respondent to be employed, remunerated or be a manager of a recognised body; or

13.4. an order requiring the Society to refer the Second Respondent's conduct to another appropriate regulator.

14. On 8 September 2017, the First Respondent wrote to the SRA, in her capacity as COFA of the Firm, to disclose breaches of the SRA Accounts Rules 2011 that had occurred within the Firm. That letter disclosed that the Firm's book-keeper had resigned on 19 October 2016. On 17 November 2016, the Firm appointed Quill Pinpoint ("Quill") as replacements. The First Respondent stated that as a result of the time taken to find a suitable replacement and the need to move over to Quill, client account reconciliations were not made within the five-week period. Furthermore, as a result of Quill using a different accounts system from that previously used by the Firm (Alpha Law), this caused an issue when back posting. To try and assist with remedying the problems, Quill inserted the Alpha Law code in the matter description line so this could be used for searching and postings. The First Respondent wrote:

*"The confusion caused by changing the numbering system led to some client accounts being left overdrawn and suspense accounts used to allocate unknown monies to, these are in the process of being rectified by going through each individual ledger and confirming the balances"*

15. The First Respondent informed the SRA that it was believed that there had been a failure to comply with Rules 20.9, 29.12 and 29.25 of the SRA Accounts Rules 2011.

#### *SRA Investigation*

16. As a result of the First Respondent's disclosure an SRA investigation commenced on 3 January 2018 and a forensic investigation officer ("FIO") was commissioned to prepare a report. The resulting report ("the FIR") was completed on 14 November 2018.

17. During the investigation, it was identified that the Firm had not conducted client account reconciliations from November 2016 to August 2017. The Firm provided client account reconciliations for periods ending 31 August 2017, 30 September 2017, 31 October 2017 and 30 November 2017. These reconciliations detailed the following balances:

<u>Period ending</u>	<u>Date of reconciliation</u>	<u>Client Debit Balance</u>	<u>Office Credit Balance</u>	<u>Client Account Balance</u>
31.8.17	16.10.17	£761,557.20	£130,661.29	£5,965,474.37
30.9.17	10.11.17	£200,297.43	£49,013.54	£5,354,657.36
31.10.17	30.11.17	£114,417.33	£47,508.11	£4,810,225.91
30.11.17	21.12.17 (Date printed)	£82,907.58	£42,373.44	£3,249,234.50

18. On 31 May 2018, the Firm provided the FIO with a schedule of posting corrections that had been made to correct historic posting errors made on client ledgers. Due to these posting errors, the client account reconciliations for the period ending August 2017 through to November 2017 were not reliable.

19. In addition, on 31 May 2018, the Firm also provided the FIO with a schedule of office to client bank account transfers totalling £123,464.79. The transfers had been made between 5 September 2017 and 2 March 2018 in order to replace client account shortages.

20. The explanations provided by the Firm for these transfers suggested that the client account shortages had been caused by:

20.1. Payments made in excess of funds held for individual clients which had caused client debit balances;

20.2. Duplicate transfers of costs and disbursements from client to office bank account; and

20.3. Client money incorrectly held in the Firm's office bank account which had caused office credit balances.

21. The FIO reviewed each of the client ledger accounts relating to the transfers made by the Firm from the office to client account to rectify the cash shortages referred to above.

He was then able to categorise the shortages that had arisen as follows:

21.1. Client debit balance - £55,889.88;

- 21.2. Duplicate payment from client bank account - £5,327.00; and
- 21.3. Office credit balances - £23,339.12

*Client Debit Balances - £55,889.88*

22. Due to payments made from the Firm's client bank account in excess of funds held for individual clients, the FIO was able to identify 108 client debit balances totalling £55,889.88. Each and every one of the debit balances is identified (including the date the debit balance arose and the date it was rectified), but the FIO noted the following key points:

- 22.1. The debit balances had arisen during the period 19 August 2016 to 1 December 2017;
- 22.2. The debit balances ranged from £2 as the smallest to £17,551.60 as the largest;
- 22.3. The longest time the Firm had taken to rectify a debit balance was 493 days; and
- 22.4. In 97 instances, the Firm had taken in excess of 47 days to rectify the debit balances.

*Duplicate Payments from Client Account - £5,327.00*

23. On 1 May 2017 and 27 July 2017, the Firm made 17 duplicate payments from their client bank account. These duplicate payments totalled £5,327.00, with individual payments amounting to either £299 or £360.

24. These duplicate payments were rectified on 6 September 2017 and 4 October 2017. This meant that in all cases, the Firm had taken in excess of 40 days to rectify these duplicate payments, with one payment not being rectified for 128 days.

*Office Credit Balances - £23,339.12*

25. Due to the Firm incorrectly holding client money in their office bank account, 98 office credit balances had arisen, totalling £23,339.12.

26. The FIR sets out each of the 98 credit balances (including the date the credit balance arose and the date it was rectified), but the key points that can be discerned are as follows: :

- 26.1. The office credit balances had arisen during the period from 25 April 2016 to 5 December 2017;
- 26.2. The balances ranged in amount from £1 as the smallest to £2,416 as the largest;
- 26.3. In 92 instances, the Firm had taken in excess of 40 days to replace the office credit balance which had arisen; and
- 26.4. The longest time taken by the Firm to replace an office credit balance was 620 days.

*Client Ledger Account Number 'TRA0021'*

27. During the period 31 March 2017 through to 19 December 2017, the Firm operated a client ledger account number TRA0021 named, 'Transfer Differences'. This client ledger was used by the Firm to post client to office bank account transfers totalling £129,648.80 that could not be allocated to specific clients.
28. The FIO noted the following in relation to this client ledger:
  - 28.1. The posting dates on the ledger were not in chronological order in every instance;
  - 28.2. The posting date on the ledger was not in every instance the date of the transaction as shown by the Firm's bank statements. The Firm had noted the transaction date in the narrative on the ledger;
  - 28.3. On 1 May 2017, the client ledger balance was shown as £116,309.82 overdrawn;
  - 28.4. The Firm had made office to client bank account transfers totalling £129,648.80 in replacement of the unallocated client to office account transfers; and
  - 28.5. The balance of the ledger since 19 December 2017 has been £0.00.
29. The largest of the unallocated client to office bank transfers recorded on the ledger was that of £17,600 on 1 May 2017. On 10 October 2018, the FIO received an e-mail, with accompanying documents, from the First Respondent, which provided the following explanation:
  - 29.1. The Firm had made a client to office account transfer of £17,600 on 11 April 2017 and the transfer had been incorrectly posted as 1 May 2017 on the TRA0021 client ledger account'



- 29.2. On 11 April 2017, an employee of Quill had sent an e-mail to the Firm asking them to transfer £17,600 from the client to office bank account. This apparently related to January and February Land Registry fees. This employee left Quill shortly after that transfer was made and her colleagues had been unable to locate any evidence for that figure;
- 29.3. Quill posted the transfer to the TRA0021 ledger to allow them to close down the May 2018 month end;
- 29.4. Quill had advised that the original transfer related to multiple ledgers, but it was not now possible to identify the specific client matter files to which it was intended the transfer would relate;
- 29.5. The fees of £17,600 had already been accounted for in later client to office transfers; and
- 29.6. The transfer of £17,600 was replaced as part of the office to client account transfer of £68,925.35 which had taken place on 8 September 2017, "*which was actioned to replace all funds taken in error*".

#### *Qualified Accountant's Report*

30. The Firm submitted, to the SRA, a qualified Accountant's Report, dated 28 September 2017 and covering the period from 1 April 2016 to 31 March 2017.
31. The Report identified that the following breaches of the Accounts Rules:
- 31.1. Rule 14.4 – Clients had not been informed of client money held in the client bank account every twelve months;
- 31.2. Rule 20.9 – Client ledger accounts had been left overdrawn as at March 2017, although it was acknowledged that the Firm and its book keepers had drastically reduced the number of overdrawn balances;
- 31.3. Rule 29.12 – Client reconciliations had not been performed every five weeks. Since October 2016, client reconciliations had been conducted consistently late. It was believed that this was due to the departure of the Firm's book-keeper and the time taken to find a replacement;
- 31.4. Rule 29.25 – Suspense ledgers were being used for unallocated funds and some of which were held in the long term. It was acknowledged that these were now being regularly reviewed to ensure transactions were allocated to the correct client ledgers.
32. The Report did specify, though, that no misuse of client funds had been identified.

*£327,000 payment*

33. The Firm acted for Mr and Mrs A in the sale of Property A. The fee earner was Person B of the Firm and the matter partner was the First Respondent.
34. The sale of Property A was subject to ancillary relief proceedings.
35. On 26 February 2018, at 11am, an e-mail was sent to Person B from a Hotmail e-mail address, using a capital letter for the first letter of the e-mail address. In this e-mail, it was requested that the proceeds of the sale of Property A were transferred as follows:
  - 35.1. £327,000 to Mr A's Natwest bank account (sort code 60-01-21, account number 74454870); and
  - 35.2. The remainder, after deductions of fees and disbursements, to Mrs A's Halifax bank account (sort code 11-02-26, account number 10900067).
36. At 3:22pm on the same day, the 26 February 2018, a similar e-mail was sent to Person B from a Hotmail e-mail address, but this time the first letter of the e-mail address was in lower case. This e-mail made similar requests regarding the proceeds from the sale of Property A, but on this occasion it was requested that:
  - 36.1. £327,000 was transferred to Mr A's HSBC bank account (sort code 40-03-33, account number 52193000); and
  - 36.2. The remainder, after deductions of fees and disbursements, was transferred to Mrs A's HSBC bank account (sort code 40-04-37, account number 81748696).
37. On 27 February 2018, Person B requested that payments were made from the Firm's client bank account, based on the contents of the 3:22pm e-mail.
38. On 1 March 2018, Mr A informed Person B that he had not received the £327,000 and that the account details provided for him in the 3:22pm e-mail of 26 February 2018 were not in fact his.
39. On 1 March 2018, Mrs A informed Person B that she had received her funds of £2,081.08 on 28 February 2018. However, the payment into her bank account (sort code 11-02-26, account number 10900067) had occurred with a reference of 'DS', rather than 'Bottrills'.

40. On 1 March 2018, the Firm reported the matter to their bank and instructed their bank to recall the £327,000 payment.

41. On 2 March 2018, the Firm informed their professional indemnity broker of what had transpired. The broker responded, to the Second Respondent, in the following terms:

*“We will have to notify Insurers as of course this stands as a circumstance which could lead to a claim. You should also consider your regulatory obligations as a deficit in the client account is a breach of the accounts rules. Can you keep us in the loop with regard to the bank and the likelihood of them being successful in their recall of the funds”?*

42. On 2 March 2018, the Firm’s bank sent an e-mail, addressed to the Second Respondent, but with the First Respondent also copied in, which stated:

*“I contacted the beneficiary bank they have advised the payment has been returned/intended to be returned, so it should be re-credited back to our customer in due course”.*

43. The funds were returned to the Firm’s bank account on 6 March 2018.

44. No report of this incident was made to the SRA, despite the fact that there was an on-going forensic investigation at the Firm at the time it occurred.

#### 17 October 2018 interview

45. On 17 October 2018, the Respondents were interviewed by the SRA.

#### *First Respondent*

46. In the course of the interview, the First Respondent made the following comments of note:

46.1. asked about her Accounts Rules training, she confirmed that she had done nothing further than her LPC [Legal Practice course] training;

46.2. The Firm’s book-keeper had worked for the Firm for years, and he ceased acting for the Firm (due to health reasons) on 19 October 2016;

- 46.3. The Firm had made enquires with their accountants as to a suitable replacement and Quill had been suggested. They started working with the Firm on 17 November 2016, but the migration exercise from Alpha Law to Quill's system had taken, "*forever*". The First Respondent expected that the migration would have been completed by the end of 2016;
- 46.4. During the 'migration period' of November 2016 through to the summer of 2017, reconciliations were not carried out;
- 46.5. The figures for the reconciliation ending August 2017 were put to the First Respondent and she confirmed that they were unlikely to be reliable. The same was confirmed in relation to the September – November 2017 reconciliations;
- 46.6. Both the First and Second Respondent confirmed that they now believed the Firm's books of accounts were accurate;
- 46.7. When asked about the client debit balances of £55,889.88, it was confirmed that it had taken the Firm so long to replace the client shortages as the Firm could not make repayments until their books of account were up-to-date;
- 46.8. When asked about the duplicate payments of £5,327.00, it was explained that this was due to incorrect postings;
- 46.9. When asked about the office credit balances of £23,339.12, the First Respondent stated that it had taken so long to rectify or replace these breaches as the Firm was still working through the migration to the Quill system and working through the issues;
- 46.10. When asked about the 'TRA0021' client ledger, it was confirmed that this had been used to post transactions which could not be allocated properly. Transfers had taken place from the client account to the office account when matters could be allocated and had been recorded on a list. The list had been provided to Quill and then lost. The Firm at that stage posted the transactions on the TRA0021 client ledger;
- 46.11. Both Respondents confirmed that they had not been aware of the issues identified in the qualified Accountant's Report of 28 September 2017 until the end of August 2017. Although, it was confirmed that it was known that client account reconciliations were not taking place;
- 46.12. The First Respondent confirmed that the qualified Accountant's Report was reported to the SRA;
- 46.13. In relation to the £327,000 payment meant for Mr A, it was confirmed that this was not reported to the SRA as, due to the money being recalled, it was thought that this was not a breach.

## *Second Respondent*

47. In the course of the interview, the Second Respondent made the following comments of note:

- 47.1. When asked about her Accounts Rules training, she stated that she had *"...been on some courses for the COLP and COFA when that came in..."* and confirmed that the fundamental purpose of the Accounts Rules was to protect client money;
- 47.2. The migration exercise (referred to at paragraph 44.3 above) from Alpha Law to Quill's system had been completed by the end of summer 2017;
- 47.3. Prior to the Firm's transfer to Quill, they had never received a qualified Accountant's Report;
- 47.4. The figures for the reconciliation ending August 2017 were put to the Second Respondent and she confirmed that they were unlikely to be reliable. The same was confirmed in relation to the September – November 2017 reconciliations;
- 47.5. Both the First and Second Respondent confirmed that they now believed the Firm's books of accounts were accurate;
- 47.6. When asked about the client debit balances of £55,889.88, it was confirmed that it had taken the Firm so long to replace the client shortages as the Firm could not make repayments until their books of account were up-to-date;
- 47.7. The Second Respondent confirmed that it was only she and the First Respondent that could make payments from the Firm's bank account;
- 47.8. When asked about the duplicate payments of £5,327, it was explained that this was due to incorrect postings;
- 47.9. When asked about the 'TRA0021' client ledger, it was confirmed that this had been used to post transactions which could not be allocated properly. Transfers had taken place from the client account to the office account when matters could be allocated and had been recorded on a list. The list had been provided to Quill and then lost. The Firm at that stage posted the transactions on the TRA0021 client ledger;
- 47.10. Both Respondents confirmed that they had not been aware of the issues identified in the qualified Accountant's Report of 28 September 2017 until the end of August 2017. Although, it was confirmed that it was known that client account reconciliations were not taking place;

47.11. In relation to the £327,000 payment meant for Mr A, it was confirmed that this was not reported to the SRA as, due to the money being recalled, it was thought that this was not a breach.

### Responses to FIR

48. On 11 November 2019, the SRA wrote to both Respondents, providing them with a copy of the FIR and summarising the Allegations. The Respondents were asked to provide a response by 27 November 2019.

#### *First Respondent*

49. The First Respondent replied to the SRA on 21 November 2019. In this letter, the First Respondent made the following points:

- 49.1. That she had left the Firm and no longer had access to the Firm's records relating to the events that featured in the FIR;
- 49.2. The problems experienced with the migration from the original book-keeper's system to that used by Quill were repeated;
- 49.3. In relation to the £327,000 payment, it was repeated that this had not been reported as it was not seen to be a material breach. It was acknowledged that, with hindsight, it should in fact have been reported as a material breach.

50. On 28 November 2019, the SRA replied to the First Respondent's 21 November 2019 letter. The SRA requested a more detailed response to the Allegations set out in their 11 November 2019 letter.

51. The First Respondent replied, again, to the SRA on 13 December 2019. In the course of this letter, the First Respondent admitted the Allegations and various breaches of the Principles, Accounts Rules, Authorisation Rules and Code of Conduct, as set out in the SRA's 11 November 2019 letter.

#### *Second Respondent*

52. On 16 December 2019, the Second Respondent replied to the SRA's 11 November 2019 letter. This letter made the following points:

- 52.1. The FIO's comments about the Books of Account were noted and accepted. It was acknowledged that the migration from Alpha Law to Quill had exceeded the timescale given by Quill, which had impacted the accounts. The Second Respondent then provided an explanation for the current improved accounting arrangements within the Firm;
- 52.2. The FIO's observations about the office to client Repayments totalling £123,464.79 were noted and accepted. It was asserted that the duplicate transfer issue could not now take place within the Firm under its current arrangements;
- 52.3. In relation to the FIO's comments on the duplicate payments from the client account, it was asserted that these duplicate payments had been requested by a fee earner that was no longer employed by the Firm. It was also stated that this could not occur again due to the current process involved on Quill;
- 52.4. In relation to the office credit balance of £23,339.12, it was pointed out that a number of these payments related to refunds from search companies and HM Land Registry. Furthermore, due to the current accounting system and the fact that the accounts are reconciled weekly, any such balances could now be remedied promptly;
- 52.5. In relation to the TRA00021 client ledger issue, it was asserted that the Firm does not operate suspense ledgers. It was asserted that Quill had opened such a ledger in the past when the Firm had been migrating from Alpha Law to Quill;
- 52.6. In relation to the £327,000 payment, the Second Respondent accepted that there had been a failure to notify the SRA of a material breach. It was asserted that it was believed that the funds had not left the Firm's account as "*...it was being recalled*"; and
- 52.7. The Second Respondent did, however, report this matter to her own regulator, CILEX.

## **Mitigation**

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

### *The First Respondent*

54. With hindsight she should have insisted the accountant deal with the monthly reconciliations and further insisted upon regular updates from more senior members of staff/managers within Quill to understand the position.
55. With hindsight she believes that due to her personal issues she was not as pro-active in dealing with the accounts as she would have been without such personal issues happening in her life.
56. In relation to the improper payment (allegation 1.3) during this time she was travelling to Sri Lanka/in Sri Lanka. She was informed by the Second Respondent that the bank had informed her that they were not aware of the funds being deposited in a third party account. As such she was under the impression that this was not a material breach. With hindsight she realised that it should have been reported as a material breach.
57. She is saddened by the events and she clearly found herself in a position of trust within a firm that was chaotic and disorganised suffering a poor accounting regime.
58. She accepts that she has fallen below the very high standards of a solicitor in practice, especially those holding positions of responsibility in a firm such as being a COLP, COFA or Partner. These were not caused out of any personal gain or advantage but by taking on the responsibilities of being a principal within a firm without undertaking proper due diligence and recognising the overarching responsibilities of office.

#### *The Second Respondent*

59. She accepts the allegations made by the SRA and acknowledges the firm could have done better to adhere to the rules, regulations and requirements of the SRA. She is disappointed to have not better represented the profession. She has personally taken steps to better the firm and ensure compliance to the highest level.
60. She has never had a professional negligence claim made on one of her files.
61. She retained the position of COLP for the firm and not the COFA. She accepted these allegations without contesting them, as she understands the severity of them. Since knowing what occurred in reality, she has been horrified by the severity of the breaches.
62. Whilst the breaches did occur no clients suffered as a direct result of these breaches and the Accountants Report acknowledges there was never any misuse of client funds.
63. She has faced an exceptional task to resolve the issues and deal with the SRA investigation which has resulted in a substantial reduction in time that she has been able to devote to fee earning, so it can be fairly said that she has already suffered a substantial financial punishment for these matters.

#### **Agreed Outcome**



64. The First Respondent admits all of the above allegations and agrees:

64.1. To pay a financial penalty in the sum of £10,000

64.2. That she be made subject to the following restrictions on practice for an indefinite period (with liberty to apply to vary or discharge the conditions), namely that the First Respondent may not:

64.2.1. Practise as sole practitioner or sole manager or sole owner of an authorised body;

64.2.2. Be a Compliance Officer for Legal Practice or Compliance Officer for Finance and Administration.

64.2.3. 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.

64.3. To pay costs to the SRA agreed in the sum of £14,487.50

65. The Second Respondent admits all of the above allegations and agrees:

65.1. To pay a financial penalty in the sum of £7,501

65.2. To be subject to an order:

(a) that as from the specified date -

(i) no solicitor or employee of a solicitor shall employ or remunerate, in connection with the practice carried on by that solicitor, the Second Respondent; and

(ii) no recognised body, or manager or employee of such body, shall employ or remunerate the Second Respondent, in connection with the business of the recognised body,

except in accordance with the SRA's permission;

(b) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with the SRA's permission, permit the Second Respondent with respect to whom the order is made to be a manager of the body;

(c) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with the SRA's permission, permit the Second Respondent to have an interest in the body.

(d) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with the SRA's permission, permit the Second Respondent to be a Compliance Officer for Legal Practice or Compliance Officer for Finance and Administration.

65.3. To pay costs to the SRA agreed in the sum of £14,487.50.

66. The sanctions outlined above are considered to be in accordance with the Tribunal's sanctioning guidance (9th edition) taking into account the guidance set out in *Fuglers and Others v Solicitors Regulation Authority* [2014] EWHC 179 (as per Popplewell J) and as set out in the guidance at paragraph 8. Reference is made to the points of mitigation raised by the Respondents above.

67. It is agreed that:

67.1. A reprimand is not sufficient, but neither the protection of the public nor the protection of the reputation of the profession requires the First Respondent to be suspended or struck-off the roll;

67.2. Considering the facts described above and the aggravating and mitigating factors discussed below, the seriousness of the misconduct giving effect to the purpose of the sanction, this case falls in a bracket in which a fine and practising certificate conditions are appropriate for the First Respondent.

67.3. In respect of the Second Respondent, being unadmitted and in the circumstances set out above, and in light of the need to protect the public and the reputation of the legal profession, this case falls in a bracket in which a fine and order are appropriate for the Second Respondent as set out above.

68. In respect of the level of culpability:

68.1. The conduct cannot properly be described as spontaneous and continued for a period of time between 25 April 2016 and 5 December 2017;

68.2. They were each aware of the problems experienced with the Firm's accounts during the migration from Alpha Law to Quill from November 2016 through to the summer of 2017, and in August 2017 were aware of the problems identified in the qualified Accountant's Report. Despite this knowledge, the problems in relation to the Firm's client account continued through until December 2017;

68.3. In not acting promptly, and not reporting such matters when required to do so, the Respondents have failed to comply with their legal and regulatory obligations and have failed to deal with their regulators in an open, timely and co-operative manner.

68.4. The Respondents self-reported the accounts rules breaches in September 2017 and it was during the course of the SRA's investigation that the issues of the improper payment occurred (allegation 1.3 and 2.5).

68.5. It is acknowledged that the Respondents were not motivated by financial benefit;

68.6 There is no alleged lack of integrity or alleged dishonesty;

69. In respect of the level of harm:

69.1. It is acknowledged that no client money was in fact lost or misused during the period that the client account was overdrawn

69.2. However by virtue of the shortage within the client account , client money was in fact put at risk over a twenty-month period.

69.3. The transferring money from the client account to the office account, without maintaining a proper record of the (i) the client to whom the money related; or (ii) the reason for the transfer, that client money was, again, put at risk. As previously acknowledged by the Respondents, client money was placed at risk, albeit that no known loss to clients did in fact occur.

69.4. In relation to the improper payments (allegation 1.3 and 2.5) in not acting promptly, and not reporting such matters when required to do so, the Respondents have failed to comply with their legal and regulatory obligations and have failed to deal with their regulators in an open, timely and co-operative manner. In addition the Respondents have failed to maintain the trust and confidence placed in the profession by the public.

70. In respect of aggravating features which aggravate the seriousness of the misconduct:

70.1. The continuation over a period of time;

70.2. That the misconduct was such that the Respondents knew or ought reasonably to have known that the misconduct was in material breach of the solicitors' accounts rules to protect the public and the reputation of the legal profession.

71. In respect of mitigating features, the Tribunal is referred to the factors raised in mitigation by the Respondents above. Factors that mitigate the seriousness of the misconduct include:

71.1. The accounting failures were made good by the Respondents.

71.2. The Respondents have engaged with the SRA;

71.3. Open admissions have been made by the Respondents in relation to the allegations by virtue of the self-report, during the SRA investigation, and in their Answers to the Rule 12 Statement;

72. The Parties consider that in light of the admissions set out above and taking due account of the mitigation put forward by the Respondents, the proposed outcome represents a proportionate resolution of the matter which is in the public interest.



**Ian Brook, Legal Director, Capsticks LLP  
On behalf of Solicitors Regulation Authority Limited**

**Date: 1 March 2022**

.....  
**Ms Nicola Thompson**

**Date:**

.....  
**Ms Ruth Rush**

**Date:**