

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12298-2022

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

VARINDER SINGH BHANDAL

Respondent

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Before:

Mr A N Spooner (in the chair)

Mr E Nally

Dr A Richards

Date of Hearing: 28 March 2022

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**Appearances**

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

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**JUDGMENT ON AN AGREED OUTCOME**

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## **Allegations**

1. The allegation against Mr Bhandal made by the Solicitors Regulation Authority Ltd (“SRA”) was that whilst in practice as a manager at Hawksley Law Ltd (trading as Claas Solicitors) (“the Firm”):
  - 1.1 Between 30 January 2018 and 25 June 2021, failed to operate a proper accounting system in that he failed to:
    - 1.1.1 maintain accurate books of account; and/or
    - 1.1.2 produce and submit annual Accountant’s Reports to the SRA; and/or
    - 1.1.3 undertake regular and accurate reconciliations

and in doing so breached any or all of the following:

### Pre-25 November 2019

Principles 4, 5, 6, 8 and 10 of the SRA Principles 2011 and Rules 1.2(f), 29.1, 29.12 and 32A.1 of the SRA Accounts Rules 2011.

### 25 November 2019 and beyond

Principles 2 and 7 of the SRA Principles 2019, Rules 8.1, 8.3 and 12.1 of the SRA Accounts Rules 2019, Paragraph 4.2 of the Code of Conduct for Solicitors, RELs and RFLs (“Solicitor Code”) 2019 and Paragraph 8.1 of the Code of Conduct for Firms (“Firm Code”) 2019.

## **Documents**

2. The Tribunal had before it the following documents:-
  - Rule 12 Statement and Exhibit HWP/1 dated 10 January 2022
  - Agreed Statement of Facts and Outcome dated 24 March 2022

## **Background**

3. Mr Bhandal was admitted to the Roll in November 2010. He became a manager/director of the Firm on 1 March 2018. He stepped down as a director of the Firm on 16 July 2021. Mr Bhandal held a current unconditional Practising Certificate.

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

4. The parties invited the Tribunal to deal with the Allegations against Mr Bhandal in accordance with the Agreed Statement of 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

5. 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 Mr Bhandal's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
6. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that Mr Bhandal's admissions were properly made.
7. 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 considered that Mr Bhandal (notwithstanding that he was not the senior partner) was under a duty to ensure that the Firm complied with its regulatory obligations. The Firm had placed client monies at risk over an extended period of time. The Tribunal noted that Mr Bhandal had made full and frank admissions, and also that Mr Bhandal was not fully aware of the nature or the extent of the breaches.
8. The Tribunal considered that the nature of the misconduct was such that sanctions such as no order or a reprimand did not reflect the seriousness of the misconduct. The Tribunal did not consider that the misconduct was so serious that Mr Bhandal needed to be removed from practice so as to protect the public or the reputation of the profession. The Tribunal determined that a financial penalty, together with restrictions adequately reflected the seriousness of the misconduct and would protect the public from any future harm.
9. The Tribunal assessed Mr Bhandal's misconduct as more serious such that it fell within the Tribunal's Indicative Fine Band level 3. The Tribunal considered that the proposed sanction of a fine in the sum of £10,000 adequately reflected the seriousness of the misconduct.
10. The parties proposed that Mr Bhandal be restricted from:
  - practising as a sole practitioner or sole manager or sole owner of an authorised or recognised body;
  - acting as the Compliance Officer for Legal Practice or Compliance Office for Finance and Administration for any authorised or recognised body; and
  - holding client money.
11. Such restrictions, the parties submitted, should be imposed for a period of 24 months. The Tribunal considered that the proposed restrictions were necessary to protect the public from harm by Mr Bhandal. Accordingly, the Tribunal approved the sanctions proposed by the parties and granted the application for matters to be dealt with by way of an Agreed Outcome.

## Costs

12. The parties agreed costs in the sum of £7,500. The Tribunal considered that the agreed amount was reasonable and proportionate. Accordingly, the Tribunal ordered that Mr Bhandal pay costs in the agreed sum.

## Publication

13. The Agreed Outcome concluded the matter against Mr Bhandal. The matter was initially brought against Mr Bhandal and another Respondent. The Tribunal directed that the Judgment in this matter not be published until the Tribunal had made findings in relation to the other Respondent so as to preserve the integrity of those proceedings.

## 14. Statement of Full Order

14. The Tribunal Ordered that the Respondent, VARINDER SINGH BHANDAL solicitor, do pay a fine of £10,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £7,500.00.

2. The Respondent shall be subject to conditions imposed by the Tribunal for a period of 24 months commencing on 28 March 2022 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;

- 2.1.2 Be a Compliance Officer for Legal Practice or a Compliance Officer for Finance and Administration;

- 2.1.3 Hold client money.

Dated this 4<sup>th</sup> day of April 2022

On behalf of the Tribunal

**JUDGMENT FILED WITH THE LAW SOCIETY**

**04 APR 2022**



A N Spooner  
Chair

**BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL**

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

**SOLICITORS REGULATION AUTHORITY LIMITED**

**Applicant**

**and**

**REBECCA JANE HAWKSLEY**

**First Respondent**

**and**

**VARINDER SINGH BHANDAL**

**Second Respondent**

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**AGREED STATEMENT OF FACTS AND OUTCOME BETWEEN THE APPLICANT AND  
SECOND RESPONDENT**

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**Introduction**

By a statement made by Hannah Pilkington on behalf of the Applicant, the Solicitors Regulation Authority Limited (“the SRA”) pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019 dated 10 January 2022, the SRA brings proceedings before the Tribunal making allegations of misconduct against the Second Respondent. Definitions and abbreviations used herein are those set out in the Rule 12 Statement.

**Admissions**

1. The Second Respondent admits that he:

Between 30 January 2018 and 25 June 2021, failed to operate a proper accounting system in that he failed to:

1.1. maintain accurate books of account; and/or

1.2. produce and submit annual Accountant’s Reports to the SRA; and/or

1.3. undertake regular and accurate accounts reconciliations

and in doing so breached any or all of the following:

#### Pre-25 November 2019

Principles 4, 5, 6, 8 and 10 of the SRA Principles 2011 and Rules 1.2(f), 29.1, 29.12 and 32A.1 of the SRA Accounts Rules 2011

#### 25 November 2019 and beyond

Principles 2 and 7 of the SRA Principles 2019, Rules 8.1, 8.3 and 12.1 of the SRA Accounts Rules 2019, Paragraph 4.2 of the Code of Conduct for Solicitors, RELs and RFLs (“Solicitor Code”) 2019 and Paragraph 8.1 of the Code of Conduct for Firms (“Firm Code”) 2019.

### **Background Summary**

#### *The Firm*

2. The Firm (SRA ID: 639816) was incorporated on 17 May 2017, but started trading on 24 July 2017. It trades as “Claas Solicitors”. From the point of its incorporation up until 16 May 2019, the First Respondent was the sole equity owner. On 16 May 2019 (according to a confirmation statement filed at Companies House on 31 May 2019), the equity in the Firm was split, with the First Respondent holding a 76% share and the Second Respondent holding a 24% share. On 16 May 2021 (according to a confirmation statement filed at Companies House on 19 July 2021), the Second Respondent transferred his 24% shareholding in the Firm back to the First Respondent, making her once more the sole equity owner.
3. The Firm’s head office was at 5 Minster Court, Tuscam Way, Camberley, GU15 3YY, as well as operating a branch office in Southwark, London. The Firm employed two legally qualified fee earners and ten non-legally qualified fee earners. The Firm’s areas of practice were litigation (50%), probate (20%), matrimonial and family (15%) and other (15%).
4. In the course of her interview with the FIO on the 16 June 2021, the First Respondent described herself as the “*Senior Partner*” of the Firm.
5. On 18 August 2021 the SRA determined that there were grounds to intervene into the Firm and the First Respondent’s practice.

## **Agreed Facts**

### **Professional Details**

6. The Second Respondent (SRA ID: 314074) was admitted to the Roll of Solicitors on 1 November 2010. His date of birth is September 1977. SRA records of his employment history, prior to his joining the Firm, are as follows:
  - 6.1. 1 November 2010 – 30 June 2015 – The Second Respondent was an assistant solicitor at “Oracle Solicitors”; and
  - 6.2. 1 July 2015 – 21 December 2017 – The Second Respondent was a manager at “Oracle Solicitors and Consultants Ltd”.
7. The Second Respondent joined the Firm as an employee on 4 January 2018. On 1st March 2018, he was appointed as a manager/director.
8. In his interview with the FIO on 16 June 2021, the Second Respondent confirmed that he was the Money Laundering Reporting Officer at the Firm.
9. On 22 July 2021, the Second Respondent e-mailed the SRA’s Forensic Investigation Officer (“FIO”) to confirm that he had stepped down as a director of the Firm on 16 July 2021.
10. The Second Respondent currently holds a Practising Certificate, without conditions.

### **The facts and the matters relied upon in support of the allegations**

#### **SRA Investigation**

11. Following notice being given, the SRA’s investigation into the Firm commenced on 24 March 2021. This investigation was conducted by a Forensic Investigation Officer (“FIO”).
12. The FIO conducted an initial interview with both the First and Second Respondents at the beginning of his investigation. In the course of the interview, the First Respondent made the following significant comments:
  - 12.1. That there was a significant issue and that she had *“fucked up the accounts”*;

- 12.2. In or around July 2018, the Firm had changed accounting software provider from 'Insight' to 'Leap'. When that transfer had taken place, there were problems with the client ledgers;
  - 12.3. She was not able to do 'bill runs' properly;
  - 12.4. The Firm had not obtained an SRA Accountant's Report (since inception on 24 July 2017) and the Firm did not have any practice accounts;
  - 12.5. 'Leap' would indicate that the last client account reconciliation was September 2020, when it was in fact June 2020;
  - 12.6. The books had detailed a client account shortage of £50,000 in July 2018 and then a shortage of £230,000 in June 2020. She believed that there was a client shortage, but not as high as £230,000;
  - 12.7. This client account shortage had been caused by her not knowing how to do 'bill runs'; and
  - 12.8. She had actively avoided the situation being detected and took total responsibility for it. She claimed that the Second Respondent was not aware of any of this.
13. Prior to the interview, the First Respondent had sent an e-mail to the FIO. This e-mail expanded slightly on some of the information given in the initial interview, set out health diagnoses which the First Respondent considered relevant and made the following assertions:

*"Second and most important is the issue of the general accounts stuff. I have just had a difficult conversation with Varinder and am sure he is realing [sic] from what I have told him...."*

*[...]*

*When we had Hawksley's solicitors we had an accounts package that we used for 16 years and my parents did the books. When we had the new company we invested initially in Insight and thereafter in July 2018 we started using Leap software. A mistake I wish I had never made.*

*I was unable to deal with the accounts as I did not understand it and my parents retired.*



*There was a discrepancy in the balances at the point of transfer of the ledgers and I could not work the billing and payment facility on the system.*

*I was unable to reconcile with a variance in the accounts.*

*We have not properly reconciled since August 18.*

*We have no sra reports*

*We have no company accounts*

*I have actively hidden this from Varinder and cannot express how bad this makes me feel as I know I have screwed not only my career up but also harmed him.”*

#### *Accounts*

14. The last client account reconciliation conducted by the Firm on ‘Insight’ is dated 1 July 2018. This detailed:
  - 14.1. Three client debit balances totalling £371;
  - 14.2. Unrepresented debits totalling £4,559.24;
  - 14.3. Unrepresented credits totalling £1,544; and
  - 14.4. Total adjustments of £19,785.36.
15. A partial explanation for the £19,785.36 adjustments figure was given by the First Respondent in her interview with the FIO on 16 June 2021.
16. The first client account reconciliation conducted by the Firm on ‘Leap’ is dated 31 July 2018. This detailed:
  - 16.1. Eight client debit balances totalling £17,081.26;
  - 16.2. Unbanked receipts totalling £187,735.96;
  - 16.3. Unreconciled electronic receipts totalling £1,500;
  - 16.4. Unpresented cheques/payments totalling £28,757.77; and

- 16.5. Reconciliation deposit adjustments totalling £165,233.83
17. The Firm was unable to provide an explanation for the deposit adjustments totalling £165,233.83.
18. The most recent client account reconciliation that the Firm had conducted, as of 24 March 2021, on 'Leap' was for the period ending 30 June. This detailed:
  - 18.1. Ten client debit balances totalling £8,001.71;
  - 18.2. Unreconciled receipts totalling £530; and
  - 18.3. Reconciliation withdrawal adjustments totalling £229,209.59
19. The Firm was unable to provide an explanation for the withdrawal adjustments totalling £229,209.59.
20. Given that this client account reconciliation, for the period ending 30 June 2020, was the last reconciliation conducted by the Firm, it meant that no reconciliation had been conducted for at least eight months.
21. In any event, none of the client account reconciliations provided to the FIO could be relied upon as:
  - 21.1. They included transactions which were recorded on the Firm's bank statements, but not within the Firm's books of accounts; and
  - 21.2. There were adjustments which could not be explained.
22. The Firm instructed Stein Richards Accountants ("Stein Richards") to bring the Firm's books of accounts into compliance and were in the process of obtaining a Legal Cashier. As a result, the FIO agreed to give the Firm until 31 May 2021 to bring the books of account up to date before finalising his report.
23. On 4 June 2021, Stein Richards provided the FIO with a client account reconciliation as at the extraction date of 28 February 2021. This reconciliation had been prepared using Excel and not the Firm's accounting software, 'Leap.' It did not contain a list of client liabilities and detailed the following:
  - 23.1. Outstanding payments totalling £297,439.46 (76 items dated from 27 March 2018 to 2 February 2021);

- 23.2. Outstanding receipts totalling £278,436.67 (88 items dated from 12 March 2018 to 27 February 2021);
  - 23.3. Payments from the client bank account which were not posted to the cashbook totalling £1,080,217.33 (170 items dated from 10 July 2018 to 25 February 2021);
  - 23.4. Receipts into the client bank account which were not posted to the cashbook totalling £310,395.67 (104 items dated from 6 July 2018 to 26 February 2021);
  - 23.5. Adjustment of £19,785.36 from 'Insight' as at 1 July 2018 (unexplained adjustment); and
  - 23.6. Difference on opening balance entered onto 'Leap' totalling £993.84 (unexplained difference)
24. Following the interview with the First Respondent on 16 June 2021 (see paragraph 59 below), the FIO gave the First Respondent an opportunity to provide further information in relation to the figures detailed in the client account reconciliation as at 28 February 2021. On 25 June 2021, the First Respondent e-mailed the FIO providing the following further information:
- 24.1. The adjustment of £19,785.36 had been reduced to £10,310. This reduction had taken place as the transfer from 'Insight' to 'Leap' had taken place over some time, requiring an examination of each ledger and each posting;
  - 24.2. Each single entry was not necessarily one mistake or failure to enter a figure. There were various alternatives on what each entry could be, for example:
    - 24.2.1. Late posting of transactions at the bank (i.e. funds received on 21 March 2021 but not posted until 4 April 2021);
    - 24.2.2. Multiple incoming payments (i.e. multiple receipts totalling £1,200 received on one day, only £1,140 is posted); and
    - 24.2.3. Difference between the amount received and the amount posted (i.e. £33.02 received at bank, £33.01 posted to the books of account)
25. This 25 June 2021 e-mail from the First Respondent attached a 24 June 2021 e-mail from Ms Hyams at Stein Richards. Ms Hyams, in her e-mail, asserted the following:

- 25.1. A deduction of the outstanding receipts figure (£278,436.67) from the outstanding payments figure (£297,439.46) would leave a balance of £782.57;
  - 25.2. It was appreciated that this was just looking at the numbers in total, rather than the detail, but it was thought this may lead to the final solution;
  - 25.3. As soon as the payments not posted to 'Leap' (totalling £1,080,217.33) were identified, individual client ledgers could be updated;
  - 25.4. In relation to receipts not posted to 'Leap, the receipts from 9 August 2018 to 11 November 2019 (totalling £2,749.42) related to interest (incorrectly) received into the client bank account; and
  - 25.5. The remaining receipts could be entered in 'Leap' as soon as the details were provided.
26. The Firm had not obtained an SRA Accountant's Report since its inception on 24 July 2017.
  27. None of the issues the FIO had identified with the Firm's book of accounts had previously been reported to the SRA by the First Respondent; the Firm's COFA.
  28. From the accounting records provided, the FIO was unable to determine whether the Firm held sufficient funds in its client bank account to match its liabilities to its clients.

#### *16 June 2021 interview with First Respondent*

29. On 16 June 2021, the FIO conducted an interview with the First Respondent. The First Respondent was questioned about the Firm's accounts. The following comments of significance were made:

##### *Understanding of Rules*

- 29.1. When asked about her understanding of the SRA Accounts Rules, the First Respondent replied, "*Well certainly up until 2018 we were pretty much on top of everything and then things have been awry since then*"

##### *Arrangements and circumstances as to accounts systems*

- 29.2. The First Respondent had been managing law firms for the last 19 years and had not previously encountered problems with the accounts;

- 29.3. The First Respondent's parents had previously assisted with the books of accounts, but they had retired once the Firm was established;
- 29.4. The First Respondent found 'Leap' to be *"unfriendly and unfathomable"* when the Firm moved to that system;
- 29.5. When asked why she had not employed anyone to maintain the account records, the First Respondent replied, *"Partly financial but more because I couldn't get straight and I didn't want to bring anyone in to get us straight, and the longer it went on the worse it got"*;

#### *Accountant's reports*

- 29.6. The First Respondent confirmed that she was aware of the requirement to obtain a yearly accounts report and confirmed that the Firm had not obtained one since its inception;
- 29.7. An accountant firm by the name of 'Menzies' started work on the 2018 accounts, but this was not completed;

#### *Arrears and accounts defects*

- 29.8. The Firm's PAYE and NICS payments were six months in arrears, totalling approximately £22,000;
- 29.9. The yearly VAT bill for the Firm was normally £23,000 (approx.), but the Firm had last made a VAT payment in July 2019;
- 29.10. The First Respondent was in the process of selling her house to raise capital to meet the debts;
- 29.11. The Firm had previously acquired a £50,000 Bounce Back Loan;
- 29.12. When questioned again about the lack of accountants' report, the First Respondent replied, *"Well '18 is easy to answer in that we were getting it done and it didn't pan out because we had the bad situation. 18/19 was because there was that hole in the accounts, and I couldn't put it right to get it to an accountant"*
- 29.13. When asked to clarify what was meant by a 'hole in the accounts', the First Respondent replied, *"That, that full three or four month period where things were shit beyond believe [sic] and we had those transfers that we couldn't*

*properly post, and we couldn't properly deal with. So it was just a case of we can't, you know, I will get it done, it will be sorted and then it hasn't got sorted"*

#### *Involvement of Second Respondent*

- 29.14. The First Respondent was asked to clarify what she had meant in her 24 March 2021 e-mail when she referred to 'hiding' matters from the Second Respondent, and replied, *"I know we're both supposed to sign off on things regularly. We've had management meetings and I basically just presented bottom line figures rather than giving anybody any documents and I have never told him we don't reconcile. When he's asked, I've basically the, the reconciliations statement that we've printed has the, the variants figure, and I've never drawn it to his attention what variants figure means and how that changes and so as far as you can see the bottom two figures work so.."*;
- 29.15. The First Respondent had told the Second Respondent that the Firm needed a book-keeper. The First Respondent believed that the Second Respondent had seen client account reconciliation statements, but he had never asked her to what the variance related;
- 29.16. The First Respondent believed that the Second Respondent was unaware of the Firm's liabilities, in terms of VAT and PAYE;
- 29.17. The First Respondent believed that she was responsible for compliance with the accounts rules at the Firm given that she was 'Senior Partner' and the COFA;
- 29.18. The First Respondent confirmed that she had made the comment, *"I've fucked up the accounts"* to the FIO on 24 March 2021;
- 29.19. The £19,785.36 adjustment figure from the 1 July 2018 reconciliation represented money that was held by 'Hawksley's' at the point of transfer to the Firm, but the clients had not (at the point of transfer) signed up to be clients of the Firm;

#### *Reconciliations*

- 29.20. The First Respondent confirmed that a client account reconciliation had not been conducted between June 2020 and 24 March 2021;

29.21. It was agreed that the client account reconciliation for 28 February 2021, provided by Stein Richards on 4 June 2021, was not compliant with the SRA Accounts Rules;

29.22. The books of account had not been brought up to date by 31 May 2021 due to work/time pressures on the First Respondent;

*Client account shortage*

29.23. The First Respondent stated that she was certain that there would be a client account shortage and she believed the figure would be in the region of £20,000;

*16 June 2021 interview with Second Respondent*

30. On 16 June 2021, the FIO conducted an interview with the Second Respondent. The Second Respondent was questioned about the Firm's accounts and the handling of Client A's estate. The following comments of significance were made:

30.1. The Second Respondent had joined the Firm as a fee-earner in January 2018 and became a partner in March/April 2018;

30.2. The Second Respondent had a "*base understanding*" of the SRA Accounts Rules, but he had not been involved in the financial side of things at his previous firms. In relation to his involvement at the Firm, he stated, "*...Becky had in some form or other, been running the firm for sixteen/seventeen years and her parents were doing the financial side of things. So I had no cause for concern really. I was, I wasn't coming on board to do that...*";

30.3. The Second Respondent acknowledged that he was aware of the joint and several liability for managers of a firm under the SRA Accounts Rules, but stated, "*...I didn't really have any reason to, to be concerned. I had total confidence in, in Rebecca, because I mean she is known in this area, having grown up here. There's a handful of firms around here and she's one of the people that – she's been going a long time*";

30.4. The Second Respondent was the Money Laundering Reporting Officer for the Firm, but he had never held the roles of COLP or COFA;

30.5. The Second Respondent was aware of the obligation for a firm to obtain a yearly accountant's report, and why that was a requirement. This was something he had been chasing the First Respondent about, but he was led to believe that the matter was in hand;

- 30.6. When asked if he was aware that an accountant's report had not been obtained prior to the start of the SRA investigation, he replied, *"It wasn't really relevant to my knowledge until you highlighted it. I knew we were behind with filing Companies House records, accounts at Companies House. I'd have to say I wasn't fully aware of you know, of the extent to it really"*;
- 30.7. The Second Respondent expanded on that point by saying, *"It wasn't on my radar until that. I knew we were behind in filings, but your investigation really highlighted it and you know, really gave us all a kick up the backside and you know, did cause me considerable concern to be honest"*;
- 30.8. The Second Respondent asserted that he had "zero" involvement with client account reconciliations and that he had neither asked to see them, nor in fact had he ever seen them;
- 30.9. He believed that the Firm's books of accounts were compliant with the SRA Accounts Rules, prior to the start of the SRA's investigation;
- 30.10. The Second Respondent asserted that he was aware of Stein Richards becoming involved since the SRA investigation began, but he continued to be *"not really involved"*. He continued, *"I'll be honest, I don't have an understanding of, of the accounts side of things, it's not something I'm trained in, so I'm not going to pretend that I do. But I do continuously chase her to make sure she's on top of getting what, what we need to get in order to, to get this resolved"*;
- 30.11. The Second Respondent conceded that he should have made more enquiries about the Firm's accounts and that there had been failings on his part as a partner due to his implicit trust in the First Respondent;
- 30.12. The Second Respondent became aware of the Firm's outstanding liabilities for VAT and PAYE when the First Respondent mentioned it on 24 March 2021;
- 30.13. When asked how he felt about the First Respondent hiding the problems with the Firm's accounts from him, the Second Respondent replied, *"Thinking about it obviously it's a – I've worked very hard to get, get you know into this career and as you guys probably know, it's not an easy thing to get into. You know yeah, I was quite annoyed I still am to be honest with you, I'm still not happy with how things have been held from me, considering I came over in good faith you know"*;



- 30.14. The Second Respondent had located a cashier, who was due to start working at the Firm on Monday;
- 30.15. None of the outstanding payments or receipts on the Firm's book of accounts related to the Second Respondent's matters;
- 30.16. When asked about the figures from the most recent client account reconciliation, the Second Respondent replied, "...*Becky is dealing with it; accountants are dealing with it. I'm, I'm not actively involved in that process*".

### **Mitigation**

31. It is recognised that the Second Respondent has fully engaged with the Applicant and its investigation, and has made early admissions.
32. In mitigation, which is not agreed by the SRA, the Second Respondent notes the following: The First Respondent actively went out of her way to hide matters from the Second Respondent and did not allow him any access to accounting systems and or payroll systems.

### **Penalties proposed**

33. The Second Respondent agrees:
- 33.1. To pay a financial penalty in the sum of £10,000;
- 33.2. That the following restrictions be imposed for a period of 24 months: The Second Respondent may not:
- 33.2.1. practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body;
- 33.2.2. be a Compliance Officer for Legal Practice or Compliance Office for Finance and Administration for any authorised or recognised body;
- 33.2.3. hold client money;
- 33.3. To pay costs to the SRA agreed in the sum of £7,500.
34. 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 Second Respondent above.

35. The misconduct giving rise to the allegations is more serious.
36. This assessment takes into account that the level of the Second Respondent's culpability in respect of the allegations above is moderately high as:
  - 36.1. Notwithstanding the position held by the First Respondent, the Second Respondent had a duty, by virtue of his status as a principal in the Firm, to prevent breaches of the Accounts Rules and to ensure compliance with the Firm Code 2019. There were significant breaches of the Accounts Rules and Code as identified above, including in relation to the treatment of client money. The sheer volume of deficiencies in the Firm's accounts and the length of time for which this persisted undoubtedly put client money at risk;
  - 36.2. The Second Respondent's level of experience;
  - 36.3. The conduct cannot properly be described as spontaneous and continued for a period of time between 30 January 2018 and 25 June 2021;
  - 36.4. It is recognised that the Second Respondent's misconduct did not involve dishonesty;
  - 36.5. It is recognised that the Second Respondent has not sought to mislead the SRA and has made appropriate admissions.
  - 36.6. The Second Respondent has made clear that he was unaware of the extent to which the Firm's books of accounts were non-compliant with the Accounts Rules.
37. As to the harm caused, the admitted failures and breaches of the Accounts Rules, Code and Principles placed client money at risk and caused harm to clients and staff at the Firm, including delayed payments of liabilities. In addition, it is considered that there was harm or risk of harm to the reputation of the profession.
38. As to the principal factors which aggravate the seriousness of the misconduct:
  - 38.1. That the misconduct occurred over a period of time;

- 38.2. Misconduct where the Second Respondent ought reasonably to have known that the conduct complained of was in material breach of obligations to protect the public and the reputation of the legal profession.
39. The Tribunal is referred to the factors raised in mitigation by the Second Respondent above. Factors that mitigate the seriousness of the misconduct:
  - 39.1. It is acknowledged that the First Respondent has accepted that she did not communicate/disclose the accounting breaches to the Second Respondent;
  - 39.2. genuine insight communicated by the Second Respondent;
  - 39.3. open and frank admissions at an early stage and degree of cooperation with the SRA.
40. 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. It is submitted that the proposed restriction order is both necessary and proportionate.