

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12298-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

REBECCA JAYNE HAWKSLEY

Respondent

Before:

Ms A Horne (in the chair)

Mr G Sydenham

Dr S Bown

Date of Hearing: 3 May 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 by the Solicitors Regulation Authority against Ms Hawksley, were that, whilst in practice as a Manager at Hawksleys Law Ltd (trading as Claas Solicitors) (“the Firm”):

Accounts

- 1.1 Between 24 July 2017 and 25 June 2021, failed to operate a proper accounting system in that she 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 accounts reconciliations; and/or
- 1.1.4 take remedial action to ensure that the Firm’s accounts were compliant with the regulatory requirements;

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

Prior to 25 November 2019

Principles 4, 5, 6, 8 and 10 of the SRA Principles 2011, Rules 1.2(f), 7.1, 29.1, 29.12 and 32A.1 of the SRA Accounts Rules 2011 and Rule 8.5 (e) of the SRA Authorisation Rules 2011;

On or after 25 November 2019

Principles 2 and 7 of the SRA Principles 2019, Rules 6.1, 8.1, 8.3 and 12.1 of the SRA Accounts Rules 2019, Paragraphs and 4.2 of the Code of Conduct for Solicitors, RELs and RFLs (“Solicitor Code”) 2019 and Paragraphs 8.1 and 9.2 of the Code of Conduct for Firms (“Firm Code”) 2019.

2. Between 2018 and 24 March 2021, failed to report the defects in the Firm’s books of accounts to the SRA and in doing so breached any or all of the following:

Prior to 25 November 2019

Principles 2, 6 and 7 of the SRA Principles 2011 and Rule 8.5(e) of the SRA Authorisation Rules 2011

On or after 25 November 2019

Principles 2 and 5 of the SRA Principles 2019 and Rule 9.2 of the Firm Code 2019

Client A’s Estate

3. Between 4 January 2016 and 12 March 2021, failed to provide a proper standard of service in the administration of the estate of Client A in that whilst acting as estate solicitor and Sole Executor she:

- 3.1 failed to conduct the administration of the estate with due diligence; and/or
- 3.2 delayed in the preparation of interim estate accounts; and/or
- 3.3 prepared inaccurate interim estate accounts which identified funds as awaited when those had already been collected;

and in doing so breached the following:

Prior to 25 November 2019

Principle 6 of the SRA Principles 2011

On or after 25 November 2019

Principle 2 of the SRA Principles 2019

Failure to co-operate effectively with the Legal Ombudsman

4. Between 12 March 2021 and 12 July 2021, failed to act in accordance with the agreement reached with the Legal Ombudsman on 12 March 2021 and in doing so breached any or all of Principle 2 of the SRA Principles 2019, Paragraph 7.3 of the Solicitor Code 2019 and Paragraph 8.1 of the Firm Code 2019.
5. Ms Hawksley did not accept that her conduct was in breach of Principle 2 as alleged at allegation 2. The Applicant considered that in light of the admissions made, matters raised by Ms Hawksley as regards her health and the proposed sanction, it was not proportionate to seek a determination on that aspect of allegation 2.
6. The Tribunal considered that in light of all the circumstances, it was neither proportionate nor in the interests of justice for the Applicant to pursue the alleged breach of Principle 2. Accordingly, the Tribunal granted permission for that aspect of allegation 2 to be withdrawn.

Documents

7. The Tribunal had before it the following documents:-
 - Rule 12 Statement and Exhibit HWP1 dated 10 January 2022
 - Statement of Agreed Facts and Outcome dated 29 April 2022

Background

8. From the point of its incorporation up until 16 May 2019, Ms Hawksley was the sole equity owner of the Firm. She was admitted to the Roll of Solicitors in September 1997. Ms Hawksley was the Firm's Compliance Officer for Legal Practice (COLP) and Compliance Officer for Finance and Administration (COFA) from the point at which it started trading.
9. On 18 August 2021 the SRA determined that there were grounds to intervene into the Firm and Ms Hawksley's practice. Her Practising Certificate was suspended following the decision to intervene. On 28 September 2021, the suspension was lifted.

Ms Hawksley was granted a conditional Practising Certificate, which prevented her from:

- acting as a manager or owner of an authorised body;
- practising on her own account under Regulation 10.2(a) or (b) of the SRA Authorisation of Individuals Regulations;
- acting as a COLP or COFA for any authorised body; and
- holding or receiving client money, or acting as a signatory to any client or office account or having the power to authorise transfers from any client or office account.

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

10. 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 outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

Findings of Fact and Law

11. 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 Ms Hawksley's rights to a fair trial and to respect for her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
12. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that Ms Hawksley's admissions were properly made.
13. The Tribunal considered the Guidance Note on Sanction (9th 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 Ms Hawksley's misconduct was such that sanctions of No Order, a Reprimand and a Fine did not adequately reflect its seriousness. The Tribunal considered that the misconduct was such that Ms Hawksley ought to be immediately removed from practice in order to protect the public and the reputation of the profession. Ms Hawksley was aware that she was in breach of her obligations as regards the management of the accounts. Notwithstanding that knowledge, she breached further obligations by failing to report the accounting breaches and other failures to the SRA. Her conduct had caused harm to clients and staff, and had caused harm and distress to bereaved family members. The Tribunal noted that Ms Hawksley had made admissions, and also noted the medical evidence upon which she relied.
14. The Tribunal considered that in all the circumstances, the appropriate sanction was to suspend Ms Hawksley for a period of 6 months, and thereafter to impose conditions upon her practise so as to protect members of the public from any risk of future harm by her. The Tribunal considered that given the serious nature of the misconduct, the conditions should be imposed indefinitely. If Ms Hawksley were, at some future date, able to demonstrate that she no longer posed any risk such that some or all of the conditions were no longer necessary, she was at liberty to make an application to the Tribunal to vary or remove some or all of them.

Costs

15. The parties agreed costs in the sum of £15,000. The Tribunal was satisfied that the costs agreed were reasonable and proportionate, taking account of Ms Hawksley's financial position. Accordingly, the Tribunal ordered that Ms Hawksley pay costs in the agreed sum.

16. Statement of Full Order

1. The Tribunal Ordered that the Respondent, REBECCA JAYNE HAWKSLEY, solicitor, be suspended from practice as a solicitor for the period of six months to commence on 03 May 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 as follows:

2.1 The Respondent may not:

2.1.1 Act as a manager or owner of a Firm;

2.1.2 Act in any management or compliance role including as a Compliance Officer for Legal Practice, Compliance Officer for Finance and Administration or Money Laundering Reporting Officer for any authorised or recognised body;

2.1.3 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.

3. There be liberty to either party to apply to the Tribunal to vary the conditions set out at paragraph 2 above.

Dated this 12th day of May 2022

On behalf of the Tribunal



A Horne
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
12 MAY 2022

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

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

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 First Respondent. Definitions and abbreviations used herein are those set out in the Rule 12 Statement.

Admissions

The First Respondent, admits that whilst in practice as a Manager at Hawksleys Law Ltd (trading as Claas Solicitors) (“the Firm”) she:

1. Between 24 July 2017 and 25 June 2021, failed to operate a proper accounting system in that she 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/or
- 1.4. take remedial action to ensure that the Firm's accounts were compliant with the regulatory requirements;

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

Prior to 25 November 2019

Principles 4, 5, 6, 8 and 10 of the SRA Principles 2011, Rules 1.2(f), 7.1, 29.1, 29.12 and 32A.1 of the SRA Accounts Rules 2011 and Rule 8.5 (e) of the SRA Authorisation Rules 2011;

On or after 25 November 2019

Principles 2 and 7 of the SRA Principles 2019, Rules 6.1, 8.1, 8.3 and 12.1 of the SRA Accounts Rules 2019, Paragraphs and 4.2 of the Code of Conduct for Solicitors, RELs and RFLs ("Solicitor Code") 2019 and Paragraphs 8.1 and 9.2 of the Code of Conduct for Firms ("Firm Code") 2019.

2. Between 2018 and 24 March 2021, failed to report the defects in the Firm's books of accounts to the SRA and in doing so breached any or all of the following:

Prior to 25 November 2019

Principles 6 and 7 of the SRA Principles 2011 and Rule 8.5(e) of the SRA Authorisation Rules 2011

On or after 25 November 2019

Principle 2 of the SRA Principles 2019 and Rule 9.2 of the Firm Code 2019

Client A's Estate

3. Between 4 January 2016 and 12 March 2021, failed to provide a proper standard of service in the administration of the estate of Client A in that whilst acting as estate solicitor and Sole Executor she:
 - 3.1. failed to conduct the administration of the estate with due diligence; and/or

- 3.2. delayed in the preparation of interim estate accounts; and/or
- 3.3. prepared inaccurate interim estate accounts which identified funds as awaited when those had already been collected;

and in doing so breached the following:

Prior to 25 November 2019

Principle 6 of the SRA Principles 2011

On or after 25 November 2019

Principle 2 of the SRA Principles 2019

Failure to co-operate effectively with the Legal Ombudsman

4. Between 12 March 2021 and 12 July 2021, failed to act in accordance with the agreement reached with the Legal Ombudsman on 12 March 2021 and in doing so breached any or all of Principle 2 of the SRA Principles 2019, Paragraph 7.3 of the Solicitor Code 2019 and Paragraph 8.1 of the Firm Code 2019.

Aspect not admitted

5. The First Respondent does not admit that her conduct as set out above at allegation 2 amounts to a breach of Principle 2 of the 2011 Principles or Principle 5 of the 2019 Principles. The First Respondent admits the remainder of the allegations.
6. The Applicant considers that in light of the admissions made, the relevant matters raised in evidence and mitigation by the Respondent (including in relation to matters of health), and the sanction agreed between the Parties, it is not proportionate to seek determination of this aspect of Allegation 2, and asks the Tribunal to approve this Agreed Outcome on this basis. It considers in all the circumstances that the proposed Agreed Outcome provides a proportionate resolution to the proceedings, and provides an effective sanction.

Agreed Facts

Background Summary

The Firm

7. The Firm (SRA ID: 639816) was incorporated on 17 May 2017, but started trading on 1st August 2017. It traded as “Claas Solicitors”. From the point of its incorporation up until 16 May 2019, the First Respondent was the sole equity owner.
8. 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.
9. 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%).

The First Respondent

10. The First Respondent (SRA ID: 29433) was admitted to the Roll of Solicitors on 15 September 1997. Her date of birth is November 1972. SRA records of her employment history, prior to the Firm starting to trade, are as follows:
 - 10.1. 14 February 2002 – 8 November 2010 - The First Respondent traded on her own account as “R J Hawksley & Co Solicitors”;
 - 10.2. 9 November 2010 – 9 January 2012 – The First Respondent was a member of the “Hawksley Partnership LLP”; and
 - 10.3. 19 January 2012 – 31 July 2017 – The First Respondent traded on her own account as “Hawksley’s Solicitors”.
11. The First Respondent was the Firm’s Compliance Officer for Legal Practice (COLP) and Compliance Officer for Finance and Administration (COFA) from the point at which it started trading. The First Respondent was initially one of the Firm’s two managers/directors at its inception. The other manager/director left the Firm on 30 November 2017. Following their departure, until the Second Respondent was appointed as a manager/director on 30 January 2018, the Respondent (albeit for a limited period of time) was the sole manager/director.

12. 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.
13. On 18 August 2021 the SRA determined that there were grounds to intervene into the Firm and the First Respondent’s practice. The First Respondent’s Practising Certificate was suspended following the decision to intervene. On 28 September 2021, the suspension of the First Respondent’s 2020-2021 Practising Certificate was lifted, but made subject to the following conditions:
 - 13.1. The First Respondent shall not act as a manager or owner of an authorised body;
 - 13.2. The First Respondent may not practise on her own account under Regulation 10.2(a) or (b) of the SRA Authorisation of Individuals Regulations;
 - 13.3. The First Respondent may not act as a COLP or COFA for any authorised body; and
 - 13.4. The First Respondent may not hold or receive client money, or act as a signatory to any client or office account or have the power to authorise transfers from any client or office account.
14. On 28 July 2020, Person A made a report to the SRA about the First Respondent’s handling of the estate of his late uncle, Client A. The First Respondent had been the Sole Executor of the Estate. This complaint made reference to the fact that a complaint had already been made to the Legal Ombudsman (“LeO”).
15. On 10 February 2021, LeO reported the Firm to the SRA in relation to the way in which probate was being handled for the estate of Client A. LeO’s report makes reference to the extent to which the Firm failed to provide information, as requested, between 17 December 2020 and 10 February 2021.

SRA Investigation

16. 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”). 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:
 - 16.1. That there was a significant issue and that she had “fucked up the accounts”;

- 16.2. 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;
 - 16.3. She was not able to do 'bill runs' properly;
 - 16.4. 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;
 - 16.5. 'Leap' would indicate that the last client account reconciliation was September 2020, when it was in fact June 2020;
 - 16.6. 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;
 - 16.7. This client account shortage had been caused by her not knowing how to do 'bill runs'; and
 - 16.8. 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.
17. 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 (details of which are not set out here) 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

18. The last client account reconciliation conducted by the Firm on ‘Insight’ is dated 1 July 2018. This detailed:
 - 18.1. Three client debit balances totalling £371;
 - 18.2. Unrepresented debits totalling £4,559.24;
 - 18.3. Unrepresented credits totalling £1,544; and
 - 18.4. Total adjustments of £19,785.36
19. 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.
20. The first client account reconciliation conducted by the Firm on ‘Leap’ is dated 31 July 2018. This detailed:
 - 20.1. Eight client debit balances totalling £17,081.26;
 - 20.2. Unbanked receipts totalling £187,735.96;
 - 20.3. Unreconciled electronic receipts totalling £1,500;
 - 20.4. Unpresented cheques/payments totalling £28,757.77; and

- 20.5. Reconciliation deposit adjustments totalling £165,233.83
21. The Firm was unable to provide an explanation for the deposit adjustments totalling £165,233.83.
22. 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 2020. This detailed:
- 22.1. Ten client debit balances totalling £8,001.71;
- 22.2. Unreconciled receipts totalling £530; and
- 22.3. Reconciliation withdrawal adjustments totalling £229,209.59
23. The Firm was unable to provide an explanation for the withdrawal adjustments totalling £229,209.59.
24. 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.
25. In any event, none of the client account reconciliations provided to the FIO could be relied upon as:
- 25.1. They included transactions which were recorded on the Firm's bank statements, but not within the Firm's books of accounts; and
- 25.2. There were adjustments which could not be explained.
26. 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.
27. 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:
- 27.1. Outstanding payments totalling £297,439.46 (76 items dated from 27 March 2018 to 2 February 2021);

- 27.2. Outstanding receipts totalling £278,436.67 (88 items dated from 12 March 2018 to 27 February 2021);
 - 27.3. 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);
 - 27.4. 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);
 - 27.5. Adjustment of £19,785.36 from 'Insight' as at 1 July 2018 (unexplained adjustment); and
 - 27.6. Difference on opening balance entered onto 'Leap' totalling £993.84 (unexplained difference)
28. Following the interview with the First Respondent on 16 June 2021 (see 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:
- 28.1. 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;
 - 28.2. 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:
 - 28.2.1. Late posting of transactions at the bank (i.e. funds received on 21 March 2021 but not posted until 4 April 2021);
 - 28.2.2. Multiple incoming payments (i.e. multiple receipts totalling £1,200 received on one day, only £1,140 is posted); and
 - 28.2.3. Difference between the amount received and the amount posted (i.e. £33.02 received at bank, £33.01 posted to the books of account)
29. 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:

- 29.1. 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;
 - 29.2. 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;
 - 29.3. As soon as the payments not posted to 'Leap' (totalling £1,080,217.33) were identified, individual client ledgers could be updated;
 - 29.4. 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
 - 29.5. The remaining receipts could be entered in 'Leap' as soon as the details were provided.
30. The Firm had not obtained an SRA Accountant's Report since its inception on 24 July 2017.
 31. 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.
 32. 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.

Client A's Estate

33. Client A's Will identified his partner, Person B, and the sole partner of "RJ Hawksley & Co" (i.e. the First Respondent) as his executors. Person B predeceased Client A, leaving the First Respondent as the sole executor. Client A died on 4 January 2016.
34. The First Respondent commenced acting in this matter when she was operating as a sole practitioner, prior to the inception of the Firm.
35. The Firm held four client ledger accounts relating to this matter, namely:
 - 35.1. Client ledger titled "probate of Late (Client A)", which detailed transactions from 17 May 2016 to 1 August 2017;
 - 35.2. Client ledger titled "probate of the late (Client A), which detailed transactions from 1 August 2017 to 10 July 2018;

- 35.3. Client ledger titled “sale of (Property A)”, which detailed transactions from 22 June 2018 to 15 July 2018; and
- 35.4. Ledger titled “probate of the late (Client A)”, which detailed transactions from 22 February 2018 to 9 March 2021.
36. These ledgers were not up to date and, given the issues with the Firm’s books of accounts set out above, could not be treated as reliable.
37. The First Respondent obtained grant of probate on 2 March 2018.
38. Client A’s Will made allowances for the following payments and beneficiaries:
 - 38.1. A £10,000 payment to Person C; the cousin of Client A;
 - 38.2. A £5,000 payment to the Phyliss Tuckwell Hospice;
 - 38.3. In event of Person B predeceasing him, the remainder of his estate to be left in equal shares for Person D (Person A’s mother) and Person E.
39. The property asset of Client A’s estate, Property A, was sold on 29 June 2018 for £400,000.
40. A payment of £5,000 to the Phyliss Tuckwell Hospice was debited from the client ledger on 12 November 2018, but then reversed on 20 March 2019. The payment was successfully made on 10 May 2021.
41. A payment of £10,000 was made to Person C on 28 May 2019.
42. Interim payments to Persons D and E of approximately £249,000 each were made between 5 March and 9 March 2021.
43. The First Respondent prepared the draft estate accounts on 22 March 2021 and sent them to the beneficiaries. These accounts reveal the following:
 - 43.1. Client A’s estate was valued at £797,560.41, with the primary assets being (i) Property A (£400,000); (ii) savings and accrued interest (£343,781.15); and (iii) stocks and share (£43,040);
 - 43.2. The liabilities falling on Client A’s estate totalled £78,010.20;
 - 43.3. Expenses incurred by the Firm in processing the estate were £18,124;

- 43.4. Assets within the estate had provided £6,123.09 income;
- 43.5. This left a value of the estate for distribution of £707,548.32.
44. The draft estate accounts identify that final payments of £97,274.16 were due to Persons D and E (a total of £194,548.32), although it is noted that there were still some shares and an account to be received.
45. As of 9 March 2021, the balance on the client ledger was only £91,679.62.
46. The account identified in the draft estate accounts as still outstanding was identified by the FIO to be the Yorkshire Building Society Account. The estate accounts detailed that this account held £51,061.32, including accrued interest.
47. The FIO was able to identify that £56,906.01 had been received into the Firm's client bank account on 20 March 2019. This was in fact the payment obtained from the Yorkshire Building Society Account in question. The receipt of these funds had not been posted to the Firm's book of accounts, nor the client ledger accounts for this matter. Receipt of those funds was not reflected in the draft estate accounts prepared by the First Respondent which incorrectly indicated that the monies were still to be received.
48. It follows that by failing to record the receipt of the £56,906.01 from the Yorkshire Building Society Account, and preparing the draft estate accounts on the basis that £51,061.32 was the relevant amount for that account that:
- 48.1. The figure given for "Total estate for distribution" of £707,548.32 was £5,844.69 too low; and
- 48.2. There was no "account to be received" as asserted in the draft estate accounts.
49. In response to LeO's enquiries about the delay in processing Client A's estate (a complaint having been made by Person A), the First Respondent dictated an e-mail that was sent on 4 February 2021. The First Respondent's explanations for the delay included:
- 49.1. The fact that Client A had passed away in New York, whilst he was receiving medical treatment there;
- 49.2. Difficulties in addressing the state of Property A and reports of hidden assets inside it;

- 49.3. Complications arising from personal matters relating to Client A; and
- 49.4. Person A's request that Person D receive payment through one cheque, rather than several smaller distributions.
50. On 27 April 2021, the First Respondent sent to the FIO an e-mail providing a valuation of the shares held by Client A's estate of £43,039.67. This valuation relates to the value as of 4 January 2016.
51. On 10 May 2021, the First Respondent sent an e-mail to the FIO with a valuation of the shares, as of 10 May 2021. This valuation put the shares at £19,068.39, acknowledging a loss in value of £23,971.28 since 4 January 2016.

16 June 2021 interview with First Respondent

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

Understanding of Rules

- 52.1. 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

- 52.2. The First Respondent had been managing law firms for the last 19 years and had not previously encountered problems with the accounts;
- 52.3. The First Respondent's parents had previously assisted with the books of accounts, but they had retired once the Firm was established;
- 52.4. The First Respondent found 'Leap' to be "*unfriendly and unfathomable*" when the Firm moved to that system;
- 52.5. 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

- 52.6. 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;
- 52.7. An accountant firm by the name of 'Menzies' started work on the 2018 accounts, but this was not completed;

Arrears and accounts defects

- 52.8. The Firm's PAYE and NICS payments were six months in arrears, totalling approximately £22,000;
- 52.9. The yearly VAT bill for the Firm was normally £23,000 (approx.), but the Firm had last made a VAT payment in July 2019;
- 52.10. The First Respondent was in the process of selling her house to raise capital to meet the debts;
- 52.11. The Firm had previously acquired a £50,000 Bounce Back Loan;
- 52.12. 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"*;
- 52.13. 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

- 52.14. 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..";

- 52.15. 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;
- 52.16. The First Respondent believed that the Second Respondent was unaware of the Firm's liabilities, in terms of VAT and PAYE;
- 52.17. 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;
- 52.18. The First Respondent confirmed that she had made the comment, *"I've fucked up the accounts"* to the FIO on 24 March 2021;
- 52.19. 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

- 52.20. The First Respondent confirmed that a client account reconciliation had not been conducted between June 2020 and 24 March 2021;
- 52.21. 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;
- 52.22. The books of account had not been brought up to date by 31 May 2021 due to work/time pressures on the First Respondent;

Seeking assistance/failure to report

- 52.23. The First Respondent had been trying to resolve the problems with the accounts prior to the SRA's investigation commencing on 24 March 2021;

52.24. When asked by the FIO why professional assistance from an accountants or a cashier had not been sought prior to the SRA's investigation, the First Respondent replied, "*A cashier because I didn't see how somebody that you employ could come to you and say, you know, there's this particular hole that I've found now, what we going to do about it and they'd probably phone you lot and tell us we were out of, you know that we'd done it wrong, and I wanted to resolve it before you lot knew that I'd done it wrong*";

52.25. When asked if self-reporting to the SRA had been considered, the First Respondent replied referencing matters to which the Tribunal's attention is drawn at page 107 of HWP/1 but which are not reproduced here.

52.26. The First Respondent confirmed that she believed that she could resolve the problems and then report to the SRA, so that she could demonstrate that she had been able to resolve the difficulties;

Client account shortage

52.27. The First Respondent confirmed that if, once the books of account were brought up to date, it transpired that there were client account shortages, she would be in a position to replace up to £69,000 from the sale of the house;

52.28. 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;

52.29. When the interview moved onto look at the Client A estate matter, the First Respondent stated, "*Just so you know this is a big trigger for me*" When asked to clarify, the First Respondent stated, "*Because there are certain words that trigger major problems for me. One was in the number of times you've said failure and I don't like that word, and the word (Person A) and the word (Client A) are in that list of things that if you were talking to a dog, the dog would be cowering under the table by now*";

52.30. In discussion about the Yorkshire Building Society Account (see above), the First Respondent accepted that she had received the funds by the time the draft estate accounts were produced, but they had not been posted;

52.31. The First Respondent agreed that there had been 'unexplained delay' with progressing the administration of Client A's estate but the main reason for delay in distributing funds was Person A's request that there should only be one cheque;

- 52.32. The First Respondent was still in the process of selling the shares held by Client A's estate;
- 52.33. The estate had received a refund from HMRC in the region of £13,000, which had not yet been posted;
- 52.34. The valuation of the shares provided to the FIO on 10 May 2021 had been calculated by the First Respondent herself;
- 52.35. It was acknowledged that the appropriate time to have sold these shares would have been in mid-2018, following the Grant of Probate although it was claimed that Person A had advised the First Respondent that some of the shares should not be sold as their value might increase; and
- 52.36. The First Respondent had never obtained professional investment advice in relation to this issue.

LeO Complaint

53. The delays in the administration of Client A's estate were initially the subject of complaint directly to the Firm by Person A. The 5 August 2019 letter from Person A demonstrates the extent to which he was unhappy with the progress that was being made by the First Respondent with administering his uncle's estate.
54. Person A ultimately made a complaint to LeO in relation to the apparent lack of progress and the delays that were occurring.
55. After the initial delay in engaging with the LeO, an agreement was eventually reached between the First Respondent, on behalf of the Firm, and LeO as to the steps that the Firm would take to resolve the complaint regarding the estate of Client A. This agreement, confirmed in the 12 March 2021 letter from LeO, required that the First Respondent would:
- 55.1. Provide interim estate accounts by Tuesday 16 March;
- 55.2. Carry out various tasks necessary to finalise the administration of the estate, with the last of those tasks to be completed by 26 March 2021;
- 55.3. Ensure that no fees are charged for dealing with chaser e-mails, phone calls or complaints;

- 55.4. Ensure that the estate has not/does not incur any costs due to the house being damaged whilst in your professional care;
 - 55.5. Reimburse the estate for the cost of two dehumidifiers;
 - 55.6. Reduce the fees for the probate work by 50%; and
 - 55.7. Provide a written apology.
56. On 12 July 2021, LeO wrote to the SRA to inform them of the First Respondent's non-compliance with the 12 March 2021 agreement. The referral included the statement that "*I can see no good reason for the estate not to have been finalised and the beneficiaries paid*" and confirmed failures to provide requested documentation. Person A had informed LeO that by 27 April 2021 the estate had not been concluded by 26 March 2021 as required. Indeed Person A informed the SRA on 7 July 2021 that no apology had been received, and that the estate had still not been concluded. On 15 July 2021, LeO wrote to both Respondents reminding them of the outstanding documentation which had been requested which was required to enable ongoing investigation and to allow LeO to make findings as the investigation needed to be re-opened given the non-compliance. These were required by 29 July 2021, and a further reminder was sent on 27 July 2021. On 30 July, LeO wrote to the First Respondent indicating that there had been a failure to respond to requests for documents relating to the complaint and that this was preventing LeO from processing the matter effectively.

Mitigation

- 57. It is recognised that the First Respondent has fully engaged with the Applicant and its investigation, and has made admissions.
- 58. In mitigation, put forward by the First Respondent, the First Respondent notes that she has health diagnoses relevant to the alleged conduct, evidence as to which is before the Tribunal.

Penalties proposed

- 59. The First Respondent agrees:
 - 59.1. To a period of suspension of 6 months;
 - 59.2. That the following restrictions be imposed indefinitely (subject to the parties' leave to apply to amend or rescind): The First Respondent may not:
 - 59.2.1. Act as a manager of owner of a Firm;

- 59.2.2. Act in any management of compliance role including as a Compliance Officer for Legal Practice, Compliance Office for Finance and Administration or Money Laundering Reporting Officer for any authorised or recognised body;
- 59.2.3. 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.
- 59.3. To pay costs to the SRA agreed in the sum of £15,000 which takes into account the First Respondent's financial means as outlined below and as available to the Tribunal, and the likely impact of costs recovery if those circumstances.
60. 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 First Respondent above.
61. The misconduct giving rise to the allegations is very serious. The seriousness of the misconduct is such that neither a Restriction Order, Reprimand nor a Fine is a sufficient sanction or in all the circumstances appropriate. There is a need to protect both the public and the reputation of the legal profession from future harm from the First Respondent by removing their ability to practise, but neither the protection of the public nor the protection of the reputation of the legal profession justifies striking off the Roll.
62. This assessment takes into account that the level of the First Respondent's culpability in respect of the allegations above is high as the:
- 62.1. conduct cannot be described as spontaneous;
- 62.2. First Respondent had direct control of or responsibility for the circumstances giving rise to the misconduct;
- 62.3. First Respondent was a very experienced solicitor, with significant experience of managing a law firm and was aware of the relevant Rules and Principles;
- 62.4. First Respondent failed to report the accounting breaches and failures to the SRA.
63. 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. The failures in relation to the Estate caused harm and distress to the family members of the deceased, and

prevented the Legal Ombudsman from fully investigating and resolving a complaint. In addition, it is considered that there was harm to the reputation of the profession.

64. As to the principal factors which aggravate the seriousness of the misconduct:
 - 64.1. The misconduct occurred over a period of time, and was repeated;
 - 64.2. The First Respondent failed to report and concealed the wrongdoing in the context of accounts breaches;
 - 64.3. The First Respondent ought reasonably to have known that the conduct complained of was in material breach of obligations to protect the public and the reputation of the legal profession.

65. The Tribunal is referred to the factors raised in mitigation by the First Respondent above. Factors that mitigate the seriousness of the misconduct:
 - 65.1. It is acknowledged that the First Respondent has made open and frank admissions at an early stage and degree of cooperation with the SRA;
 - 65.2. It is also acknowledged that the First Respondent has provided medical evidence (which is before the Tribunal) and which has been taken into account by the SRA

66. The First Respondent has been adjudged bankrupt as of March 2022, and has provided evidence of limited financial means which has been taken into account in relation to the proposed sanction and contribution to costs. The Parties understand that the costs order proposed above, if approved by the Tribunal, will fall as a liability within the bankruptcy estate which is likely to impact upon the extent of costs recovered by the SRA. The proposed costs order also reflects an agreed apportionment of the costs incurred by the SRA between each Respondent to the these proceedings. The SRA has considered the First Respondent's financial means and has applied a further reduction to the costs contribution on this basis.

67. 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.

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Hannah Pilkington, Solicitor, Capsticks LLP
On behalf of the Applicant SRA
Dated: 29 April 2022

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Ms Rebecca Jane Hawksley
1st Respondent
Dated: 29 April 2022