SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12322-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD Applicant

and

ALVIN GILBERT JUST First Respondent

DEVON ANTHONY BROWN Second Respondent

Before:

Mr E Nally (in the chair)
Mr G Sydenham
Mrs L McMahon-Hathway

Date of Hearing: 18 – 22 July 2022, 7 - 9 December 2022

Appearances

Louise Culleton, barrister of Capsticks LLP, 1 St Georges Road, London SW19 4DR, for the Applicant.

Mr Just represented himself.

The Second Respondent did not attend and was not represented.

JUDGMENT

Allegations

1. The allegations made against Mr Just, by the Solicitors Regulation Authority Limited ("SRA") were that, while in practice as a partner and solicitor at Just & Brown Solicitors ("the Firm"), he:

Client A and sale of Property B

1.1 Failed to ensure that client money received on 22 September 2014 and 31 October 2014 from the sale of Property B, was paid into or held in a client account. In doing so he:

1.1.1 breached any or all of Rules 1.1 and 1.2 (a), (b), (c), (e), (f) and (h), 13.1 and 14.1 of the Solicitors Accounts Rules 2011 ("the Accounts Rules")

1.1.2 breached any or all of Principles 2, 4, 6, 8 and 10 of the SRA Principles 2011 ("the Principles").

1.2 In respect of the sale of Property B:

1.2.1 Failed to explain or account to Client A for the money received from the sale of Property B;

1.2.2 Misappropriated or otherwise misused the proceeds of sale monies.

In doing so he breached any or all of Principles 2, 4 and 6 of the Principles.

1.3 Failed to cooperate with the SRA's investigation between 13 December 2016 and 11 May 2017, in that he:

1.3.1 Indicated to the SRA's Forensic Investigation Officer ("FIO") that he had not acted for Client A in any conveyancing transaction when he had so acted;

1.3.2 Following a delay, produced bank accounts of an Office Account which contained no transactions in respect of the sale of Property B, to seek to support his account that he had not acted for Client A;

1.3.3 Failed to disclose Account F in the name of 'Just & Brown Solicitors Limited', held under his name as the sole signatory, into which the money from the sale of Property B was received and held and which was operating as his personal account alongside client transactions;

1.3.4 Stated to the FIO that Account F was not his account when it was an account in his name, for which he was the sole signatory and which was being used by him for both personal and work related client transactions.

In so doing he breached any or all of Principles 2, 6 and 7 of the Principles.

Property C

1.4 Whilst in the course of acting in the sale of Property C, he failed to ensure that client money received on 17 August 2016 and 2 November 2016 from the sale of Property C was paid into or held in a client account. In so doing he:

1.4.1 breached any or all of rules 1.1 and 1.2 (a), (b), (c), (e), 13.1 and 14.1 of the Accounts Rules;

1.4.2 breached any or all of Principles 2, 4 6, 8 and 10 of the Principles.

2. In addition, Allegations 1.2.2 and/or 1.3 above were advanced on the basis that Mr Just's conduct was dishonest. Dishonesty was alleged as an aggravating feature of Mr Just's misconduct but was not an essential ingredient in proving the allegations.

3. The allegation against the Second Respondent, Devon Anthony Brown, made by the SRA was that, while in practice as a Partner and Solicitor at the Firm, he:

3.1 Failed to comply with his obligations between January 2013 and August 2017 as the Firm's Compliance Officer for Finance and Administration (COFA) in that he failed to ensure that the Firm and Mr Just complied with the Accounts Rules contrary to Rule 8.5 of the SRA Authorisation Rules 2011. In doing so he breached Principle 10 of the Principles.

4. The additional allegations against Mr Just pursuant to Rule 14 of the Solicitors (Disciplinary Proceedings) Rules 2019 ("SDPR") were that:

Breach of an undertaking to BGR Bloomer Solicitors

4.1 On or around 24 November 2015 he failed to comply with an undertaking which he had given on 6 February 2015 to preserve a costs lien over a file in relation to costs of BGR Bloomer Solicitors. In doing so he:

4.1.1 breached any or all of Principles 2 and 6 of the Principles;

4.1.2 failed to achieve Outcome 11.2 of the SRA Code of Conduct 2011 ("the Code").

Breach of an undertaking in respect of Property C

5. Whilst in the course of acting in the sale of Property C, he:

5.1 Failed within a reasonable time period to comply with an undertaking dated 27 October 2016 to discharge the mortgage against Property C on completion. In so doing he:

5.1.1 breached any or all of Principles 2 and 6 of the Principles;

5.1.1 failed to achieve Outcome 11.2 of the Code.

Communications with Mr D and Ms E in relation to a disputed probate matter

6. Whilst handling the matter of Client L, he:

6.1 made a number of inappropriate statements between March 2017 and 27 May 2017 about Mr D, counsel acting for the opposing party, Ms E, and his conduct of his client's case;

6.2 sent email messages to Mr D and Ms E on 30 April 2017 which were inappropriate and/or offensive and/or of a threatening nature.

In so doing breached any or all of Principles 2 and 6 of the Principles.

Executive Summary

7. Allegation 1.1 - The Tribunal found that Mr Just had failed to comply with the accounts rules as the Firm did not hold a client account but held client monies. In doing so, he had breached the Principles as alleged.

8. Allegation 1.2 & Allegation 2 (dishonesty) – The Tribunal found that Mr Just had failed to explain or account to Client A for the proceeds received in the sale of Property B. The Tribunal did not find proved the allegation that Mr Just had misused or misappropriated the proceeds of that sale and consequently did not find proved that he had acted dishonestly.

9. Allegation 1.3 & Allegation 2 (dishonesty) – The Tribunal found that Mr Just had failed to co-operate with the SRA during its investigation into his conduct. Further, he had deliberately withheld information and misled the SRA in a number of material matters. The Tribunal found that such conduct was dishonest.

10. Allegation 1.4 – The Tribunal did not find proved the allegation that the monies received for the sale of Property C amounted to client monies. Accordingly, the Tribunal did not find that Mr Just had breached the specified Accounts Rules and Principles as alleged. Allegation 1.4 was therefore dismissed.

11. Allegation 3.1 – The Tribunal found that Mr Brown had failed to carry out his regulatory obligations as the COFA and in doing so he had failed to protect client monies and assets.

12. Allegation 4 – The Tribunal found that Mr Just had breached the undertaking given to BGRB to preserve a lien over its costs. The Tribunal found that in doing so, Mr Just had breached Principle 6, but that his conduct on the facts concerned did not amount to a breach of Principle 2.

13. Allegation 5 – The Tribunal found that Mr Just had breached the undertaking to discharge any charges on or before completion. In doing so by his conduct on the facts concerned he had breached Principles 2 and 6 as alleged.

14. Allegation 6 – The Tribunal found that the communications sent by Mr Just to Mr Noble and Ms D were inappropriate. The Tribunal did not find that the communications were

also offensive and/or threatening. The Tribunal found that his conduct amounted to a breach of Principle 6, but did not find that it also amounted to a breach of Principle 2.

Sanction

15. The Tribunal's sanctions and its reasoning on sanction can be found below.

Sanction – The First Respondent. The Tribunal considered that the only appropriate and proportionate sanction given the seriousness of Mr Just's conduct was to strike him off the Roll of Solicitors. The Tribunal's reasoning can be accessed here:

- Sanction for the First Respondent

Sanction – The Second Respondent. The Tribunal considered that a financial penalty in the sum of £2,000 adequately reflected the seriousness of Mr Brown's conduct. The Tribunal's reasoning can be accessed here:

- Sanction for the Second Respondent

Documents

16. The Tribunal reviewed all the documents submitted by the parties, which included (but was not limited to):

- Rule 12 Statement and Exhibit dated 6 April 2022
- Rule 14 Statement and Exhibit dated 16 June 2022
- Respondent's Answer and Exhibits dated 19 May 2022
- Applicant's Schedule of Costs dated 6 April 2022
- Mr Just's Statement of Costs (undated)

Preliminary Matters

17. First Respondent's application to stay the proceedings

Mr Just's Submissions

17.1 Mr Just considered that to proceed with the allegations would amount to an abuse of process. Accordingly, the allegations should be stayed.

- **Rule 14 allegations**

17.2 Mr Just submitted that the allegations made against him in the Rule 14 Statement were made as a result of his filing his witness statements in May 2022. Prior to the filing of his witness statement, the SRA had no intention of making any further allegations against him. In the circumstances, the SRA had abused its powers and had subjected Mr Just to unlawful and unwarranted victimisation and harassment. Further, he considered that the Rule 14 allegations were a "punishment" to "get me to stop expressing my thoughts and religious belief".

17.3 Mr Just submitted that but for his evidence in these proceedings in Answer to the allegations contained in the Rule 12 Statement, the SRA would not have pursued the matters contained in the Rule 14 Statement. The allegations being pursued by the SRA in the Rule 14 Statement were malicious and vexatious. The SRA settled on that course of action when it realised that Client A would not be attending to give evidence in relation to the allegations in the Rule 12 Statement. The SRA then "needed another plan so it created further allegations". Mr Just considered that whenever he answered allegations, the SRA created new ones.

17.4 Mr Just submitted that in his having been successful in previous proceedings, it was clear that the SRA was upset. It had conspired with Mr Noble "to take me down". There was no substantive or justifiable reason for the allegations contained within the Rule 14 Statement other than the SRA "trying to find something that would stick".

17.5 Mr Just's Answer and exhibits to the Rule 12 Statement proved that Client A had been untruthful, and thus proved that the SRA had no case.

17.6 Mr Just submitted that allowing the SRA to proceed with the Rule 14 Statement allegations was an abuse of process where the only reason that those allegations were being pursued was that the SRA no longer had any case against him.

17.7 As regards the allegations that Mr Just had breached undertakings, it was submitted that whilst he might have been 'technically in breach', those matters had been long since resolved; indeed those matters had been resolved prior to any investigation. To prosecute him for those matters was an abuse of process in all the circumstances.

- **Cestui Que Vie**

17.8 Mr Just submitted that the monies held in the account or accounts concerned were held by him on a Cestui Que Vie Trustee basis in a non-regulated private trust account that the SRA did not have the reserved or legal power to regulate because to do so would be ultra vires. All money in the accounts concerned were held under such trust for the beneficiaries of the private trust agreement. The matter was governed by equitable laws that fell outside of the ambit of the SRA. Mr Just was acting as a trustee, managing assets or funds that were the subject of a private trust as per each agreement between him and the relevant parties concerned. Therefore, the SDT did not have jurisdiction to hear this matter as it was not a reserved or regulated legal activity. Mr Just submitted that it was "ridiculous for the SRA to believe they can regulate a Cestui Que Vie Trustee" who was "operating under the relevant statutes and case law".

17.9 Therefore, the allegation must be dismissed as an abuse of process as the SRA had no power to regulate the accounts concerned.

17.10 In Henry v Hammond: KBD 1913, Channell J said:

> "It is clear that if the terms upon which the person receives the money are that he is bound to keep it separate, either in a bank or elsewhere, and to hand that money so kept as a separate fund to the person entitled to it, then he is a trustee of that money and must hand it over to the person who is the cestui que trust. If on the other hand he is not bound to keep the money separate but is entitled to

> mix it with his own money and deal with it as he pleases, and when called upon to hand over an equivalent amount of money, then, in my opinion, he is not a trustee of the money, but merely a debtor."

17.11 Mr Just submitted that he had the option of putting the money into non-regulated accounts; as a Cestui Que Vie Trustee. The SRA had no power to challenge that decision or any decision to mix or separate that money from his own money as Mr Just was managing the asset as a Cestui Que Vie Trustee. In all the circumstances, Mr Just did not need the permission of the SRA to hold the money in the way that he did. In holding the money as a Cestui Que Vie Trustee, those monies were not subject to the Accounts Rules.

17.12 Further, the SRA could not challenge Mr Just's position as a Cestui Que Vie Trustee. It was clear from the Accounts Rules allegations that the SRA was ignorant as to what a Cestui Que Trustee was, because it thought it had the power to regulate his activities under the Trust when it did not.

17.13 Under equity and Trust Law, the SRA does not have the power to regulate activities which are beyond the ambit of their limited power. These were executive decisions made by a Cestui Que Vie Trustee and the SRA cannot challenge or regulate the decisions as to how Mr Just dealt with money as Cestui Que Vie Trustee. Therefore, the SRA erred in its decision to refer Mr Just to the SDT for breach of the Accounts Rules in circumstances where Mr Just was not subject to those rules as a Cestui Que Trustee.

17.14 Mr Just submitted that the SDT did not have jurisdiction to hear the allegations, because the SRA erred when it thought it had the power to regulate a Cestui Que Trustee.

- **Double jeopardy**

17.15 In his skeleton argument, Mr Just stated:

> "Exodus 20: 5 Thou shalt not bow down thyself to them, nor serve them: for I the LORD thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me.
>
> I submit that the trial Judge His Honour Judge Gerald at the Central London County Court was correct for dismissing the various application (sic) made by Philip Noble and order cost for wasting Mr Just('s) time and the Court('s) time. The trial Judge also agreed that Mr Just made no threats to Philip Noble or [Ms E]. The Judge dismissed all the allegations made by Philip Noble and order cost('s) despite the many beseeching and pleading of Philip Noble and [Ms E].
>
> It is against the law of the Most High God to bow down to man and I will never worship or bow down to the racist and malicious SRA and for that reason they continue (sic) prosecute me falsely."

17.16 Mr Just considered that Mr Noble was not permitted to be a witness in the proceedings under the Double Jeopardy Rule.

17.17 The SRA was prosecuting him for allegations that he had been previously exonerated from twice – this amounted to an abuse of process. The SRA was giving Mr Noble "a third chance at a case he already lost" resulting in his client having to pay costs.

17.18 The exceptions to the Double Jeopardy were not applicable to proceedings before the Tribunal. Mr Just thus had "an absolute right to relief from these allegations because it is an attempt to mislead the Tribunal and an abuse of process".

17.19 Mr Just stated that he entered the plea of "autrefois acquit" "because I was acquitted in two previous cases in the Central London County Court in May 2017 and in the High Court in around December 2017 where Philip Noble and the SRA made the same allegations".

17.20 The Tribunal was referred to R v Beedie [1997] 2 Cr. App. R. 167, CA. where it was held that there was an abuse of process when the CPS prosecuted a person for manslaughter in circumstances where he had already been prosecuted by the HSE for health and safety offences in relation to a defective gas installation that caused a fatality. The Court of Appeal considered that, in the absence of special circumstances, the second prosecution should be halted. The public interest in a manslaughter prosecution and the concerns of the victim's family did not give rise to special circumstances.

17.21 In the proceedings before the Tribunal, Mr Just had been tried for the same allegations on two previous occasions. In addition, this was the SRA's second attempt to prosecute him for the same matters. The SRA raised these allegations at the High Court Hearing in December 2017, where Mr Just was not found guilty of any offence. To proceed with these matters at the Tribunal was an abuse of process and a violation of his fundamental Human Rights. Accordingly, the allegations should be stayed as an abuse of process.

17.22 The same matters had been considered at the High Court and dismissed. The Tribunal was bound by that decision.

17.23 Mr Just submitted that in seeking to prosecute him for statements made, the SRA was breaching his fundamental right to freedom of thought and expression.

- **Delay**

17.24 Mr Just repeated the submissions above as regards the allegations contained in the Rule 14 Statement. He considered that there was no reason for the SRA not to have included the matters in the Rule 12 Statement. As detailed, the sole reason for the Rule 14 Statement was the SRA's realisation that he had a complete defence to the allegations contained in the Rule 12 Statement.

17.25 The SRA had six years to refer those matters to the Tribunal; it only did so when it became evident that the allegations in the Rule 12 Statement would be dismissed as a result of Client A refusing to give evidence. There was no justifiable reason for the SRA taking as long as it did to refer the matters in the Rule 14 Statement to the Tribunal

- **Evidential issues**

17.26 Mr Just submitted that in the absence of Client A giving evidence, there was no case against him as regards the allegations in relation to Client A; without her evidence, his evidence was unchallenged. Mr Just submitted that the skeleton argument proved "beyond a shadow of a doubt" that the allegations were an abuse of process. In its skeleton argument, the SRA stated that it did not rely on Client A, however the allegations in the Rule 12 Statement related to Client A. Mr Just reminded Ms Culleton that whilst she had a duty to act in her client's best interests, she also had a duty not to mislead the court and that in the event of a conflict, her duty to the Court took precedence.

17.27 Further, the evidence of Mr Noble was irrelevant. For his evidence to be admissible, it needed to be relevant. Evidence was relevant if it was probative and material to the case. It will be probative if it makes the facts in the matter more probable. The Tribunal, it was submitted, should dismiss the evidence of Mr Noble because its probative value was substantially outweighed by the following: "Unfair prejudice, malice, hate, confusing the issues before the SDT, misleading the SDT, wasting time, needless presenting cumulative evidence that has been dealt with at two previous trials".

17.28 In addition, there was a conflict of interest. Mr Noble was instructing and advising the SRA what they should and should not do. His evidence had no legal relevance in this matter as it was not dealing with the allegations before the SDT. It was confusing and misleading and an attempt to breach the Rule of Double Jeopardy.

- **Breaches of Article Rights**

17.29 Mr Just submitted that the SRA had breached a number of his fundamental rights and freedoms:

17.29.1 Protection against slavery and forced labour - The SRA had breached Article 4 by prosecuting him for charging a fee for services rendered. The SRA had abused it power as the SRA had tried to force him to be worked as a slave without pay.

17.29.2 The right to liberty and freedom – The SRA and its co-conspirator had threatened Mr Just with prison because he refused to be intimidated by them. It was also prosecuting him because he had responded to emails sent by Mr Noble and Ms E. The SRA did not want Mr Just to have freedom and liberty.

17.29.3 The right to a fair trial and no punishment without law – Mr Just submitted that a person was innocent until proven guilty. If accused of a crime, one had the right to hear the evidence presented in a court of law. The SRA had suspended him from practice and prosecuted him before the case was heard in a court of law. The SRA continued to prosecute him for over three years even when the allegations against him were dismissed and he was awarded costs. In doing so, the SRA had abused its power. The allegations in the Rule 14 Statement amounted to an abuse of process; the SRA sought to prosecute

Mr Just for "making a factual remark against their co-conspirator Philip Noble"

17.29.4 Freedom of thought, religion, and belief – Mr Just submitted that one could believe what they wanted to and could practise their religion or beliefs. The SRA was prosecuting him because he mentioned God and other religious statements in remarks in his emails and witness statement. The SRA was thus prosecuting Mr Just because of his freedom of thought and religious belief. The SRA had abused its powers and had inevitably breached Mr Just's fundamental human rights under the various articles 6-10. The SRA continued to conspire with Philip Noble and to receive advice from him. The Rule 14 allegations were a punishment to get Mr Just to stop expressing his thoughts and religious beliefs.

17.29.5 Victimisation and Harassment - Mr Just submitted that if he had not filed a witness statement in the proceedings, the SRA would not have pursued the allegations contained in the Rule 14 Statement.

17.29.6 Malice – Mr Just submitted that the Rule 14 allegations were made as a result of his witness statement. Prior to the filing of that statement, the SRA did not intend to pursue those allegations. In the circumstances, the SRA's actions were an abuse of process; the SRA had abused its powers and subjected Mr Just to unlawful and unwarranted victimisation and harassment.

- **Inadequate service/notification**

17.30 The SRA had attempted to have this matter tried in Mr Just's absence. He was not served with the proceedings and only became aware of the proceedings on 19 May 2022 by coincidence.

- **Misconduct on the part of the SRA**

17.31 Mr Just alleged that the SRA's 'false allegations' were motivated by hate, racism, victimisation and malice. He considered that he was being prosecuted because he was black. It had conspired with Mr Noble. The allegations made by Mr Noble had been dismissed and Mr Just had been exonerated. The SRA had chosen to bring proceedings on the same matter. Mr Just considered that if he were white, he would have been treated differently.

17.32 When complaints had been made on Mr Just's behalf to the SRA regarding the conduct of one of its then employees, the SRA did nothing. However, when Mr Noble made a complaint against Mr Just, the SRA closed his practice and suspended his practicing certificate within days. Also, when Mr Just made a factual remark against Mr Noble (that remark being part of his case) the SRA prosecuted Mr Just within 7 days. The SRA had prosecuted Mr Just for giving evidence against a white man and responding to the same white man. In doing so, the SRA had abused its powers and had inevitably breached Mr Just's fundamental human rights to freedom of thought, religious belief and expression.

The Applicant's Submissions

17.33 The leading authority as regards staying proceedings was R v Maxwell [2011] 1WLR 1837. The court found that proceedings could be stayed where:

> "... (i) where it will be impossible to give the accused a fair trial, and (ii) where it offends the Court's sense of justice and propriety to be asked to try the accused in the particular circumstances of the case. In the first category of case, if the Court concludes that an accused cannot receive a fair trial, it will stay the proceedings without more. No question of balancing of competing interests arises. In the second category of case, the Court is concerned to protect the integrity of the criminal justice system. Here a stay will be granted where the Court concludes that in all the circumstances a trial will offend the Court's sense of justice and propriety (per Lord Lowry in R v Horseferry Road Magistrates' Court ex p Bennett [1994] 1 AC 42, 74g) or will undermine public confidence in the criminal justice system and bring it into disrepute (per Lord Steyn in R v Latif [1996] 1 WLR 104, 1121)".

17.34 The starting point was the principles established in Maxwell. In relation to the first category, guidance on the correct approach to be taken where proceedings were said to be abusive as a result of alleged evidential deficiencies was given by Brooke LJ in R (Ebrahim) v Feltham Magistrates' Court [2001] 1 WLR 1293. At [17] Brooke LJ remarked that "in most cases any alleged unfairness can be cured in the trial process itself" and that proceedings should only be stayed in "exceptional circumstances". At [25] Brooke LJ added that the concept of "fairness" in this context included fairness to both sides and noted again that "the trial process itself is equipped to deal with the bulk of complaints on which applications for a stay are founded".

17.35 At [27], Brooke LJ also observed that:

> "It must be remembered that it is a commonplace in criminal trials for a defendant to rely on 'holes' in the prosecution case … If, in such a case, there is sufficient credible evidence, apart from the missing evidence, which, if believed, would justify a safe conviction, then a trial should proceed, leaving the defendant to seek to persuade the jury or magistrate not to convict because evidence which might otherwise have been available was not before the court through no fault of his."

17.36 In relation to the second category, Brooke LJ indicated that this would generally be confined to cases where the prosecution was not being pursued in good faith or the prosecutors had been guilty of such serious misbehaviour that they should not be allowed to benefit from it to the defendant's detriment (Ebrahim at [19] - [23]). Even then, however, there was a balancing exercise to be carried out between the competing interests at stake and the public interest in ensuring that those accused of serious offences were tried.

17.37 Ms Culleton submitted that there was no merit in Mr Just's application. None of the reasons advanced by him evidenced that he was unable to have a fair trial or that to proceed would offend the Tribunal's sense of justice and propriety. Mr Just had failed to identify any serious prejudice.

17.38 It was Mr Just's position, both in correspondence and in his oral submissions, that he was ready to defend the allegations. In his email of 23 June 2022, Mr Just stated: "I am trial ready. In fact, I cannot wait for the hearing to start".

- **Rule 14 allegations**

17.39 Ms Culleton submitted that SRA had followed the correct process pursuant to Rule 14 of the Solicitors (Disciplinary Proceedings) Rules 2019 to apply to put additional allegations before the Tribunal. Those allegations were considered and certified by the Tribunal.

17.40 During the course of preparing the Rule 12 Statement, it was identified that the additional allegations set out in the Rule 14 Statement had not previously been put to Mr Just by way of a notice sent pursuant to rule 2.3 of the SRA's Regulatory and Disciplinary Procedure Rules 2019 ("the RDPRs") and were sufficiently serious to warrant consideration by the SRA as to whether the conduct should be referred to the Tribunal. The additional allegations did not arise as part of any 'new' information not previously before the Applicant or Mr Just. In fact, those additional allegations were included within the documents exhibited to the Forensic Investigation Officer's report. Ms Culleton submitted that in the circumstances, there was no prejudice to Mr Just as the matters were known to him from an early stage.

17.41 On 14 March 2022, the SRA sent a Notice pursuant to r2.3 of the RDPRs to Mr Just setting out those allegations which were subsequently included in the Rule 14 Statement. Mr Just did not respond to the Notice. It would have been clear to him that the SRA had the additional allegations in mind well before the Rule 14 Statement was issued.

17.42 The matter was sent to an authorised decision maker to decide whether to refer the allegations set out in the Rule 14 statement to the SDT on 26 May 2022 (before the CMH on 30 May).

17.43 On 31 May 2022, an authorised decision maker at the SRA determined that those allegations included in the Notice dated 14 March 2022 should be referred to the Tribunal. Those allegations were then included as part of the index proceedings by way of a Rule 14 Statement which was then certified by the Tribunal as showing a case to answer.

17.44 The memo of the CMH which took place on 30 May 2022 was circulated to all parties on 1 June.

17.45 The additional allegations were not sought to be added by the SRA for the reasons, or in the manner, suggested by Mr Just; they were not as a reaction to/result of Client A not being a witness (there had been no reliance placed by the SRA on Client A as a witness, nor indeed any indication/assurance given to Mr Just that Client A was necessarily going to be a witness at the SDT) and the process of seeking to add the allegations commenced before the CMH that Mr Just appeared to indicate was the trigger for the addition of allegations. Further, it was not the case that the SRA had awaited Mr Just's defence and as a result had gratuitously made further allegations.

Notification in relation to the allegations in the Rule 14 Statement was sent to Mr Just in March 2022, before the Rule 12 Statement in this matter was certified.

17.46 Ms Culleton submitted that there was no prejudice to Mr Just in respect of the addition of allegations; he was notified of them in March 2022 and the subject matter of them was well known to him since the time of the forensic investigation and the reports it produced. He appeared able and very ready to respond to them and they were properly before the Tribunal.

17.47 Ms Culleton submitted that in all the circumstances, it was neither unfair nor would it offend the Tribunal's sense of justice and propriety to proceed with those matters.

- **Cestui Que Vie**

17.48 Ms Culleton submitted that the Tribunal may consider that this amounted to a defence on Mr Just's behalf, rather than demonstrating that there had been an abuse of process. In any event, it was submitted, Cestui Que Vie was irrelevant. It could not be disputed that the SRA, as the professions regulator, was required to regulate Mr Just. Further, it could not be disputed that client monies were subject to the Accounts Rules and thus subject to regulation. Additionally, it could not be disputed that as a solicitor, Mr Just was bound to comply with the Accounts Rules. Mr Just, in attempting to rely on Cestui Que Vie, was attempting to put himself beyond the remit of that regulation.

- **Double jeopardy**

17.49 Ms Culleton submitted that in layman's terms the double jeopardy principle was that a person could not be tried twice for the same crime. For civil law a similar principle was that of res judicata; a matter cannot be pursued further by the same parties when it has already been adjudicated by them (a final adjudication of a legal dispute is conclusive between parties to the litigation and their privies), or more formally:-

> "… a decision, pronounced by a judicial tribunal having jurisdiction over the cause and the parties, that disposes once and for all the matter(s) so decided, so that except on appeal it cannot be re-litigated between the parties or their privies" (Res Judicata, 4th edition, Spencer – Bower & Handley, 2009) ['privies' being those who have a legal or beneficial interest in litigation.]

17.50 The purpose of the doctrine was to prevent a party from re-litigating an issue or a defence which has already been determined and to ensure the finality of judgments so as to prevent repeated hearings of the same issues by the same parties.

17.51 Ms Culleton submitted that as a result of the principle, successive proceedings before a regulatory or disciplinary tribunal in respect of the same cause would not be permitted, however that was not the situation as regards these proceedings.

17.52 These matters were before the Tribunal for the first time, the allegations being in respect of professional misconduct by Mr Just in his role as a solicitor and the breaches of the Principles and Rules which applied to him in that role and position. That conduct might be based on matters which had previously been before another court, or which formed part of the background or context of matters going through different courts, but they

had not been tried by the Tribunal before. What was contemplated was not a second or further prosecution for the same offence upon the same facts, but disciplinary proceedings brought by the SRA to the SDT in respect of his conduct as a legal professional. As set out by one of the earliest cases to address the issue of 'double jeopardy' in regulatory proceedings:-

> "Professional misconduct or infamous conduct is not of itself an offence. In order to permit the application of the doctrine of autrefois acquit or autrefois convict there must be proceedings for an alleged offence against the law and subsequent proceedings based on the same facts alleging an offence against the law … no principle of law precludes a man who has been acquitted or convicted upon a set of facts alleged to constitute an offence being subsequently subjected upon the same facts to disciplinary action by a domestic tribunal authorised by statute to judge whether the facts constitute infamous or unprofessional conduct." [Re a Medical Practitioner [1959] N.Z.L.R. 784 at 800–801]

17.53 R (Redgrave) v Commissioner of Police of the Metropolis [2003] EWCA Civ 4; [2003] 1 W.L.R. 1136 (CA) confirmed this approach:

> "… even assuming there has been an acquittal in the criminal court, the double jeopardy rule has no application save to other courts of competent jurisdiction [disciplinary tribunals are not courts of competent jurisdiction] and there is therefore no bar to the bringing of disciplinary proceedings in respect of the same charge …There are two main reasons why the double jeopardy rule should not apply to tribunals even where they apply the criminal standard of proof. In the first place it must be recognised that the character and purpose of the proceedings is entirely different. Secondly … the material before the tribunal is likely to be different: in part because different rules of evidence are likely to apply and in part because judicial discretions may well be differently exercised—generally less strictly in the disciplinary context where at least the accused's liberty is not at stake."

17.54 It should be noted that these authorities very much consider the position where there has been an acquittal or conviction in the criminal court not precluding a regulator from bringing proceedings about the same matter; that is of course not what the situation is at hand, however it was submitted that the principle was the same in respect of matters previously before other civil courts.

17.55 Mr Just referred to being previously tried for the same matters in the Central London County Court (re. the Mr Noble and Mrs E matter), the Croydon County Court (re. the lien – Allegation 4, BGR Bloomer matter) and the High Court ('based on David Levy evidence' [sic] and/or Mr Noble's evidence).

17.56 In relation to any suggestion of double jeopardy in respect of the same matters having been tried before in respect of Mr Noble, the matters previously tried related to allegations of Mr Just falsifying a Will. What was alleged by the SRA was the inappropriate comments made by Mr Just to and about Mr Noble and Mrs E whilst he was involved in those proceedings.

17.57 In relation to references to matters being tried before in the High Court (in relation to Mr Levy's evidence and/or Mr Noble's evidence), if that was in respect of the proceedings brought under the intervention (the reasons for the intervention including the allegations brought before the SDT now) and the adjudication decision and suspension of his practising certificate, then that did not give rise to the principle of res-judicata; those proceedings were not the same and were not before the same Tribunal or court and whilst they formed part of the process leading to matters being before the SDT that did not mean it was improper for the SDT to consider the allegations.

17.58 With regard to the breach of an undertaking to BGR Bloomer Solicitors, the circumstances of the breach clearly did form part of other proceedings as set out in the Rule 14 Statement when BGRB brought a civil action against Mr Just's firm for recovery of their costs, which they were awarded in November 2015, although as of May 2016 those costs remained outstanding. That did not preclude the misconduct of Mr Just, in this regard, being considered by the Tribunal in the context of the alleged breaches of the Principles.

17.59 Ms Culleton submitted that there was no abuse of process in respect of res-judicata; this was the first time the matters alleged had come before the Tribunal and the doctrine of res-judicata did not apply.

- **Delay**

17.60 Delay, of itself, was not a free-standing ground for a claim for a stay; it fell to be considered in the context of the two categories set out in Maxwell; (i) the delay must mean that there can no longer be a fair hearing (category 1), or (ii) the delay must be such that it would offend the Court's sense of justice and propriety for the prosecution to continue (category 2).

17.61 Considering category 1 situations, in R v S [2006] EWCA 756 at [21], the Vice President held that:-

> "the correct approach for a judge to whom an application for a stay for abuse of process on the ground of delay is made, is to bear in mind the following principles:
>
> (i) Even where delay is unjustifiable, a permanent stay should be the exception rather than the rule;
> (ii) Where there is no fault on the part of the complainant or the prosecution, it will be very rare for a stay to be granted;
> (iii) No stay should be granted in the absence of serious prejudice to the defence so that no fair trial can be held;
> (iv) When assessing possible serious prejudice, the judge should bear in mind his or her power to regulate the admissibility of evidence and that the trial process itself should ensure that all relevant factual issues arising from delay will be placed before the jury for their consideration in accordance with appropriate direction from the judge;
> (v) If, having considered all these factors, a judge's assessment is that a fair trial will be possible, a stay should not be granted."

17.62 In category 2 cases, a "balancing exercise" was required as described by Lord Steyn in R v Latif [1996] 1 WLR 104 at [113]:

> "The law is settled. Weighing countervailing considerations of policy and justice, it is for the judge in the exercise of his discretion to decide whether there has been an abuse of process, which amounts to an affront to the public conscience and requires the criminal proceedings to be stayed …in a case such as the present the judge must weigh in the balance the public interest in ensuring that those that are charged with grave crimes should be tried and the competing public interest in not conveying the impression that the Court will adopt the approach that the end justifies any means."

17.63 The situations in which proceedings would offend the Court's sense of justice and propriety were summarised by Lord Bingham in Attorney-General's Reference (no 2 of 2001) [2004] 2 AC 72 at [25]:

> "The category of cases in which it may be unfair to try a defendant of course includes cases of bad faith, unlawfulness and executive manipulation of the kind classically illustrated by R v Horseferry Road Magistrates' Court ex p Bennett [1994] 1 AC 42, but Mr Emmerson contended that the category should not be confined to such cases. That principle may be broadly accepted. There may well be cases (of which Darmalingum v The State [2000] 1 WLR 2303 is an example) where the delay is of such an order, or where a prosecutor's breach of professional duty is such (Martin v Tauranga DC [1995] 2 NZLR 419 may be an example), as to make it unfair that the proceedings against a defendant should continue. It would be unwise to attempt to describe such cases in advance. They will be recognisable when they appear. Such cases will however be very exceptional, and a stay will never be an appropriate remedy if any lesser remedy would adequately vindicate the defendant's Convention rights".

17.64 Ms Culleton submitted that Mr Just was required to show on the balance of probabilities that as a result of any delay he could no longer have a fair hearing, or it would otherwise be unfair to Mr Just to proceed. For delay to be the basis of an abuse of process at common law, Mr Just had to have evidence that he would suffer serious prejudice.

17.65 Addressing Article 6(1) ECHR at this point, the "reasonable time" requirement under Article 6 (1) commenced from the time of a criminal charge for a criminal case; the analogous time period in these proceedings was the decision to refer Mr Just's conduct to the SDT. Preparatory investigations such as those undertaken by the SRA prior to a referral decision did not engage Article 6, as they did not amount to a 'determination' of any civil rights or obligations. Nor was the decision to refer a solicitor to the SDT a determination of his or her civil rights; it was the SDT itself that would determine those rights.

17.66 Ms Culleton submitted that there were three distinct time periods to be considered:

- Stage 1 – the time of the underlying conduct (2014 - 2017) until the commencement of the SRA's investigation (December 2016);

- Stage 2 – commencement of the SRA's investigation (December 2016) until the decision to refer the Respondent's conduct to the Tribunal (September 2021); and

- Stage 3 – the decision to refer to the Tribunal (September 2021) until issuing the proceedings in the Tribunal (April 2022).

17.67 As submitted above, the claim for a breach of Article 6 rights only related to stage 3, any delay prior to the decision to refer to the Tribunal should be considered according to common law principles.

17.68 **Stage 1** – The SRA received a complaint from Client A on 18 November 2016. Whilst the underlying conduct occurred from 2014 onwards, there was clearly no delay in the SRA commencing its investigation in December 2016. The other matters which are the subject of allegations occurred subsequently and within the timeframe until 2017.

17.69 **Stage 2** – Whilst the investigation commenced in December 2016 there were a number of complaints which came to the attention of the SRA subsequently (for example, it was in April 2017 that Mr Noble reported his concerns to the SRA). There were therefore different strands to investigate, involving different client matters and different areas of concerns. The Interim FI Report was concluded in July 2017, the Final FI Report in September 2017. A copy of the intervention report dated 14 August 2017 was disclosed to Mr Just at the date of the intervention and a copy was left at the office premises when the Firm was visited on 22 August 2017. At paragraph 93 of the intervention report, it stated – 'The issue of whether Mr Just and Mr Brown should be sanctioned for their conduct will be considered separately'. Ms Culleton submitted that this was an indication that Intervention was not the conclusion of the process and that the investigation was ongoing. Following that a Search and Seizure Order was made in the High Court in November 2017 due to issues with Mr Just's cooperation with the intervention. In February 2018, the Firm closed and in April 2018 Mr Just's practising certificate was suspended. EWW's ("Explanation with Warnings" letters) were sent to both Respondents on 22 November 2019. No response was received. Notices recommending referral to the Tribunal were sent to both Respondents in May 2021 (the process of drafting them having been commenced in May 2020) and the decision to refer the Respondents to the Tribunal was made on 30 September 2021.

17.70 Ms Culleton submitted that whilst there was arguably a period of delay between late 2018 and May 2021, there was no evidence of prejudice to Mr Just as a result. He had provided detailed accounts of his conduct in meetings and interviews with the FIO, he was given the opportunity to respond to EWWs and the Notices recommending referral (which he did not do) and he had subsequently provided lengthy submissions about the subject matter of the allegations and had indicated he was very ready for the substantive hearing. The passage of time of itself had not had such an impact on Mr Just's recollection of events that he could not adequately defend himself.

17.71 **Stage 3** – there was no delay at stage 3, nor evidence of any prejudice to Mr Just as a result of the three and half month time period. The reasonable time requirement of Article 6 ECHR was clearly met.

17.72 Ms Culleton submitted that the only arguable period of delay occurred at Stage 2. That delay came nowhere near close to being such that it was impossible for Mr Just to have a fair trial or that hearing the matter would offend the Tribunal's sense of justice and propriety.

- **Evidential issues**

17.73 The allegations relied upon the exhibited documentary evidence, which, it was submitted, supported the SRA's case. It was not, and could not be, an abuse of process for the hearing to proceed on the basis of that documentary evidence.

17.74 The Forensic Investigation Officer and Mr Noble were attending as witnesses; their evidence could be tested by Mr Just in cross-examination.

17.75 The SRA did not rely on Client A as a witness. The fact that Client A was not appearing as a witness before the Tribunal did not mean that the Tribunal could not consider the documentary evidence before it. Nor did it mean that Mr Just's evidence was undisputed – as he asserted. The SRA brought the proceedings. It was for Mr Just to answer that case if he wanted to, but it was incorrect to say that the absence of Client A as a witness meant that Mr Just's evidence was undisputed; if he gave evidence, this would be tested in cross-examination.

17.76 Mr Just was entitled to rely upon other documentary evidence, file his own witness evidence and call witnesses on his own behalf if he wished to do so (there is no property in a witness).

17.77 Applying the relevant principles set out above, the exceptional circumstances required in order to justify a stay of proceedings did not exist; as a starting point there were no evidential deficiencies in respect of the evidence relied upon by the SRA (the allegations relying on documentary evidence and the evidence of the two witnesses who are due to attend). Alternatively, if the Tribunal considered that there were deficiencies, they were not to the extent to cause unfairness to Mr Just. The hearing process could cure any alleged unfairness.

17.78 In respect of the second category under Maxwell, contrary to Mr Just's assertions, the SRA was pursuing allegations correctly, there had been no 'misbehaviour' on the part of the SRA and in any event there remained the public interest of the allegations before the Tribunal being considered and adjudicated upon.

17.79 With regard to Mr Just's assertion that the evidence of Mr Noble was irrelevant, that was not accepted. The allegation against Mr Just was properly brought in circumstances where the SRA sought to regulate the conduct of a solicitor in his dealing with other parties and/or professionals in the course of litigation. There was no abuse in bringing allegations in that regard. The assertion that there was collusion between Mr Noble and the SRA was rejected, as was the assertion that there was a conflict.

17.80 With regard to the evidence of Mr Taylor, upon which Mr Just relied, Ms Culleton submitted that the evidence was irrelevant, it did not go to any of the issues to be determined by the Tribunal.

- **Breaches of Article Rights**

17.81 Mr Just alleged that his Article 4–10 rights had been breached. Ms Culleton respectfully submitted that Articles 4, 5, 7, 8, 9 and 10 had no bearing on any abuse argument raised by Mr Just; they were not brought into play by any issue raised. The SRA was not pursuing allegations which violated Mr Just's freedom of thought, religion and belief, freedom of speech or right to liberty and freedom, as he suggested.

17.82 As regards his Article 6 rights, these had been addressed when considering delay above.

- **Inadequate service/notification**

17.83 Mr Just seemed to suggest that the SRA had intentionally sought to have the hearing proceed in his absence by not notifying him of the hearing properly. Notice and communications were sent to the email address which the SRA and SDT held for him. When no response was received from Mr Just following service of the proceedings, a tracing agent was instructed. Every effort was made by the SRA to ensure proper and effective service and to seek to establish effective contact with Mr Just. Indeed, he had clearly received all relevant communications from the SRA and SDT and was continuing to communicate from the email address that was used to serve proceedings on him. The SRA could not be held responsible for communications going into a spam or junk folder in his inbox. In any event, notice was served properly in accordance with the Rules; Mr Just had engaged with the SDT proceedings running up to the substantive hearing.

- **Misconduct on the part of the SRA**

17.84 Mr Just alleged that the SRA's 'false allegations' were motivated by hate, racism, victimisation and malice. Such claims were entirely rejected by the SRA. The origins of the matters before the Tribunal stemmed from a Forensic Investigation by the FIO and the report which that investigation produced; then a decision to refer to the SDT was made by a decision maker; following that the SRA then instructed third party solicitors to further investigate, draft allegations and the Rule 12 Statement and prepare the case for hearing.

17.85 The process was a rigorous one, involving many different – and independent – parties. Further Mr Just could challenge the evidence during the hearing. The Tribunal was independent of the parties. The framework of the proceedings meant that the Tribunal would seek to ensure fairness to both parties.

17.86 Ms Culleton submitted that Mr Just had failed to identify any compelling reasons to stay the proceedings, thus his application should be dismissed.

<u>The Tribunal's Decision</u>

17.87 The Tribunal gave careful consideration as to whether any of the matters raised either individually or cumulatively meant that Mr Just could not have a fair hearing, or that to proceed with the hearing would offend the Tribunal's sense of justice and propriety.

17.88 **Rule 14 allegations**

17.88.1 The Tribunal found that the assertion that the allegations contained within the Rule 14 Statement were brought as a "punishment" or were "created" as a result of the SRA considering that the Rule 12 allegations were no longer viable, to be fanciful. Mr Just had failed to provide any evidence in support of his assertions. There was no evidence that the SRA was plotting to 'take him down' or that it 'needed another plan'.

17.88.2 The Tribunal determined that it was regrettable that the SRA had failed to include the Rule 14 matters in the Rule 12 Statement, particularly when those matters had been considered in the Forensic Investigation Report, and when notices had been sent to Mr Just prior to the certification of the Rule 12 Statement. Whilst the Tribunal understood that the failure to include the additional allegations in the Rule 12 Statement was open to question, it did not accept that Mr Just's submissions as to why those matters were not contained in the Rule 12 Statement were valid or persuasive.

17.88.3 The Tribunal noted that Mr Just accepted that he was in "technical breach" of the undertakings. In the circumstances, the Tribunal found that the suggestion that in bringing those allegations the SRA's conduct was an abuse of process was unsustainable.

17.88.4 The Tribunal determined that there was no impropriety in the issuing of the Rule 14 Statement. There was no inability for Mr Just to have a fair trial, nor was there any offence to the Tribunal's sense of justice and property such that the only remedy was to stay the proceedings.

17.88.5 Accordingly, the Tribunal found that Mr Just had failed to demonstrate that the proceedings should be stayed as a result of the Rule 14 Statement or the allegations contained therein.

17.89 **Cestui Que Vie**

17.89.1 The Tribunal found that as a solicitor, it was plain that Mr Just was subject to compliance with the Accounts Rules. It determined that in circumstances where Mr Just was acting as both a solicitor on behalf of the trust, the equitable principle did not override Mr Just's regulatory obligations as a solicitor. Mr Just could not use that principle in order to side-step his professional conduct obligations as a solicitor. When the monies were received by him, they were client monies and subject to the requirements of the Accounts Rules. The Tribunal thus rejected the submissions made by Mr Just. Accordingly, the Tribunal found that there were no grounds to stay the proceedings as an abuse of process under the Cestui Que Vie principle.

17.90 **Double jeopardy**

17.90.1 The Tribunal determined that Mr Just's submissions as regards double jeopardy were misconceived. Whilst the factual matrix of the allegations had been considered in other jurisdictions, there had been no consideration of

whether his conduct amounted to professional misconduct. The matters had not been considered by the Tribunal previously. The SRA was entitled to test whether, notwithstanding the findings in other jurisdictions, Mr Just's conduct was in breach of his obligations as a solicitor. This was the first time that the matters were being considered as regards his regulatory requirements; neither the County Court nor the High Court had considered this previously.

17.90.2 Having determined that the submissions were misconceived and unsustainable the Tribunal found that there were no grounds to stay the proceedings for an abuse of process due to double jeopardy.

17.91 **Delay**

17.91.1 The Tribunal noted that delay was not, of itself, a ground for staying proceedings as an abuse of process. Mr Just was required to demonstrate that as a result of the delay, he had suffered serious prejudice. Mr Just had failed to do so. Indeed, on the contrary, Mr Just had repeated that he was ready, willing and able to defend the proceedings in full and that he was looking forward to doing so. It had not been Mr Just's position that he recollection of events had been hampered by any delay, nor was it suggested by him that as a result of any delay, important exculpatory documents had been destroyed.

17.91.2 The Tribunal agreed with Ms Culleton's submissions that consideration of any breach of Mr Just's Article 6 rights were only relevant once the decision to refer his conduct to the Tribunal had been taken. The Tribunal did not find that there was any delay in the process once that decision had been taken. Accordingly, there had been no breach of Mr Just's Article 6 rights.

17.91.3 The Tribunal determined that there had been delay between April 2018, when Mr Just's practising certificate was suspended and May 2021 when Mr Just (and Mr Brown) were referred to the Tribunal. In particular, the Tribunal considered that there was no justifiable reason for the delay between sending the EWW letters to both Respondents in November 2019 and the sending of recommendation of referral notices to the Respondents in May 2021. Further, there was no explanation as to why it had taken a year to draft the referral notices between May 2020 and May 2021.

17.91.4 Having determined that there had been delay in bringing the proceedings, the Tribunal then considered whether the delay was such that Mr Just had been caused serious prejudice such that he could not have a fair trial, or that to proceed with the hearing would offend the Tribunal's sense of justice and propriety. For the reasons detailed above, the Tribunal found that Mr Just had not suffered serious prejudice; he was able to defend the proceedings and had not evidenced that the delay had caused him any prejudice let alone serious prejudice.

17.91.5 The Tribunal did not consider that the delay had resulted in the ability of Mr Just to have a fair trial, or that it offended the Tribunal's sense of justice and property such that the only remedy was to stay the proceedings.

17.91.6 Accordingly, the Tribunal found that Mr Just had failed to demonstrate that the proceedings should be stayed as a result of the delay.

17.92 **Evidential issues**

17.92.1 The Tribunal did not accept that as Client A was not attending to give evidence, there was no evidence in support of the Applicant's case, or that Mr Just's evidence was wholly unchallenged. In the absence of any witness, it was for the Tribunal to consider what weight (if any) to give to the written evidence of that witness. The Tribunal did not find that the failure of Client A to give evidence put Ms Culleton or the Applicant in a position where they were (or might) mislead the Tribunal. The question of the weight to give to any witness evidence was one that was to be considered during the course of the proceedings. The Tribunal did not consider that it was impossible for Mr Just to have a fair trial, or that it was otherwise unfair and offensive to the Tribunal's sense of propriety and justice for the matter to proceed in the absence of Client A giving live evidence.

17.92.2 As to the relevance of Mr Noble's evidence, his evidence was relevant to the Tribunal's consideration of allegations 6.1 and 6.2. Thus the Tribunal did not find that Mr Noble's evidence was inadmissible for irrelevance. Further, there was no evidence that Mr Noble's evidence was tainted by unfairness etc. The Tribunal found that whilst Mr Just had asserted there was a conflict of interest between the SRA and Mr Noble such that he should not be permitted to give evidence, he had failed to evidence or fully particularise such a conflict.

17.92.3 The Tribunal did not consider that the matters relied upon by Mr Just amounted to exceptional circumstances that could not be cured within the trial process itself. There would be an assessment of the weight to be placed on the written evidence of Client A, and an assessment of the relevance of the evidence of Mr Noble. The Tribunal considered that if there was any unfairness (which the Tribunal did not find) that could be cured in the trial process itself as contemplated in Ebrahim.

17.92.4 The Tribunal did not consider that there were any evidential issues that resulted in the ability of Mr Just to have a fair trial, or that there was any offence to the Tribunal's sense of justice and propriety such that the only remedy was to stay the proceedings.

17.92.5 Accordingly, the Tribunal found that Mr Just had failed to demonstrate that the proceedings should be stayed as the evidential issues gave rise to an abuse of process.

17.93 **Breaches of Article Rights**

17.93.1 The Tribunal did not find that Mr Just's article rights had been breached as alleged or at all. There was no evidence that the SRA had tried to force Mr Just to work as a slave. Nor was he being prosecuted for responding to emails; it was the tone and the language used that was complained of. It would be for the Tribunal to determine whether, in responding in the way that he had,

Mr Just had professionally misconducted himself. The Tribunal did not find that in pursuing allegation 6, the SRA was seeking to compromise Mr Just's rights to liberty, freedom or free speech.

17.93.2 With regard to the right to a fair trial, the matter was to be heard by the Tribunal, in accordance with the rule of law. Accordingly, in bringing proceedings before the Tribunal, the SRA had not breached that right.

17.93.3 The Tribunal did not find that the allegations contained within the Rule 14 Statement sought to "punish" Mr Just for expressing his thoughts and religious beliefs. Accordingly, the Tribunal did not consider that there had been any breach of Mr Just's fundamental rights and freedoms as a result of the allegations made.

17.93.4 The Tribunal did not consider that in seeking the certification of the Rule 14 Statement, the SRA were victimising and harassing Mr Just. Nor did the Tribunal find that the allegations were made as a result of the SRA realising that it had no case against Mr Just, having received his evidence with regard to the Rule 12 Statement. The chronology demonstrated that the matters contained within the Rule 14 Statement were within the contemplation of the SRA well before Mr Just provided any evidence in his defence. Mr Just was sent a Notice in relation to those matters in March 2022, before the Rule 12 Statement was sent to the Tribunal for certification. The matters were thereafter referred to the Tribunal for consideration of whether they disclosed a case to answer. The Tribunal found that there was no evidential basis for Mr Just's assertion that the Rule 14 Statement was only pursued as a result of the service of his evidence as regards the Rule 12 Statement. In seeking to pursue the allegations contained within the Rule 14 Statement, the SRA had not acted unlawfully as alleged.

17.93.5 The Tribunal found that there was no evidential basis for the assertion that Mr Just's fundamental right and freedoms had been breached such that he could not have a fair trial or that to proceed with the hearing would offend the Tribunal's sense of justice and property such that the only remedy was to stay the proceedings.

17.93.6 Accordingly, the Tribunal found that Mr Just had failed to demonstrate that the proceedings should be stayed as a result of breaches of his Article rights.

17.94 **Inadequate service/notification**

17.94.1 The Tribunal considered that Mr Just had been served in accordance with the Rules. Indeed, it noted that Mr Just's communications were sent from the same email address that had been used to serve the proceedings. It was not the fault of the SRA (or the Tribunal) that the email serving the proceedings went into a junk mailbox.

17.94.2 The Tribunal found that there was no evidence that the SRA had deliberately sought to ensure that Mr Just would not be present for the hearing in order to defend himself against the allegations made. The Tribunal did not consider

that there was any evidential basis for finding that there had been inadequate service or notification of the proceedings such that it amounted to an abuse of process. The Tribunal did not find that Mr Just could not have a fair trial or that to proceed would offend the Tribunal's sense of justice, propriety or was otherwise unfair.

17.94.3 Accordingly, the Tribunal found that Mr Just had failed to evidence that the proceedings ought to be stayed due to deficiencies in the service/notification of proceedings process.

17.95 **Misconduct on the part of the SRA**

17.95.1 The Tribunal did not find that there had been any misconduct by the SRA in bringing the proceedings in relation to the Rule 12 and the Rule 14 Statements. Mr Just had provided no evidence in support of the accusations made as regards the SRA's conduct. Accordingly, the Tribunal found that there was no basis to stay the proceedings as a result of misconduct by the SRA.

17.95.2 For the reasons detailed above, the Tribunal did not find that any of the grounds relied upon, either independently or cumulatively, were sufficient to demonstrate that Mr Just was unable to have a fair trial, or that to proceed with the hearing would be offensive to the Tribunal's sense of propriety and justice such that the only remedy was to stay the proceedings.

17.95.3 Accordingly, Mr Just's application to stay the proceedings as an abuse of process was dismissed.

18. <u>Applicant's application to rely on additional evidence</u>

18.1 By way of an application dated 12 July 2022, the SRA sought the following directions:

"1. The witness statement or Mr Noble and the accompanying Notice be deemed served on 12 July 2022

2. The Notice pursuant to Rule 29 of the SDPR be deemed served on 8 July 2022

3. The written notice pursuant to Rules 28(7) and 28(8) of the SDPR be admitted as evidence and deemed served on 8 July 2022."

18.2 Ms Culleton submitted that the witness statement of Mr Noble did not seek to provide any new information and exhibited documents that were either already contained within the exhibits to the Rule 12 and 14 Statements, or were authored by Mr Just. Mr Just did not object to the application.

18.3 The Tribunal considered that in the circumstances, it was in the interests of justice to grant the application.

19. Application to proceed in the absence of the Second Respondent

19.1 Ms Culleton submitted that proceedings were served on Mr Brown by the Tribunal using the email address on record, on 12 April 2022. Mr Brown did not file and serve an answer. On 9 May 2022, the SRA emailed Mr Brown, enclosing the Tribunal's Standard Directions (amongst other things).

19.2 Following the Mr Brown's failure to file and serve his Answer, the Tribunal listed the matter for a non-compliance hearing to take place on 19 May 2022. Mr Brown was informed of the hearing by way of an email from the Tribunal dated 12 May 2022.

19.3 On 13 May 2022, Mr Brown emailed the Tribunal stating that Mr Just was no longer his business partner and he had nothing to with the Client A matter. The Tribunal replied, noting that Mr Brown had not accessed the documents on CaseLines. On the same day Mr Brown responded to an email dated 22 April 2022 from the SRA confirming that it would publish the decision to refer his conduct to the SDT.

19.4 Ms Culleton invited the Tribunal to find that there had been proper service in accordance with the SDPR. The Tribunal was referred to the principles in R v Hayward, Jones and Purvis [2001] QB, CA and GMC v Adeogba [2016] EWCA Civ 162. Ms Culleton submitted that Mr Brown had been properly served with the proceedings and had chosen not to attend. In the circumstances, the hearing should proceed in his absence.

19.5 Mr Just had no objection to the hearing proceeding in Mr Brown's absence.

The Tribunal's Decision

19.6 The Tribunal determined that the proceedings had been served in accordance with Rule 44(1)(b) of the Solicitors (Disciplinary Proceedings) Rules 2019 ("SDPR"). Mr Brown had made contact with both the SRA and the Tribunal as regards the proceedings. The Tribunal determined that Mr Brown was therefore aware of the proceedings.

19.7 Rule 36 of the SDPR provided:

> "If a party fails to attend and is not represented at the hearing and the Tribunal is satisfied that notice of the hearing was served on the party in accordance with these Rules, the Tribunal may hear and determine any application and make findings, hand down sanctions, order the payment of costs and make orders as it considers appropriate notwithstanding that the party failed to attend and is not represented at the hearing."

19.8 The Tribunal was aware that when considering whether to proceed in the absence of a Respondent, fairness to the Respondent was of prime importance, but fairness to the Applicant should also be taken into account.

19.9 The Tribunal considered that an adjournment would not result in Mr Brown attending. He had made very little contact with either the SRA or the Tribunal. To adjourn the proceedings at this stage would be disruptive to the SRA, Mr Just (who had made

particular arrangements in order to be able to attend the hearing) and the witnesses relied upon by the parties.

19.10 The Tribunal did not consider that Mr Brown would suffer any prejudice in circumstances where he could avail himself of the provision in Rule 37 of the SDPR, if the Tribunal considered that it was just to exercise its discretion.

19.11 The Tribunal paid significant regard to the comment of Leveson P in Adeogba, namely that in respect of regulatory proceedings there was a need for fairness to the regulator as well as a Respondent. At [19] he stated:

> "… It would run entirely counter to the protection, promotion and maintenance of the health and safety of the public if a practitioner could effectively frustrate the process and challenge a refusal to adjourn when the practitioner had deliberately failed to engage with the process. The consequential cost and delay to other cases is real. Where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed."

19.12 Leveson P went on to state at [23] that discretion must be exercised "having regard to all the circumstances of which the Panel is aware with fairness to the practitioner being a prime consideration but fairness to the GMC and the interest of the public also taken into account."

19.13 The Tribunal was cognisant of the fact that the principles identified in Adeogba were affirmed by the Court of Appeal in GMC v Hayat [2018] EXCA Civ 2796. The Tribunal was satisfied that in this instance Mr Brown had chosen voluntarily to absent himself from the hearing. It was in the public interest and in the interests of justice that this case should be heard and determined as promptly as possible. There was nothing to indicate that Mr Brown would attend or engage with the proceedings if the case were adjourned. In the light of these circumstances, the Tribunal found that it was just to proceed with the case, notwithstanding Mr Brown's absence.

20. Amendment of the date in allegation 5

20.1 The Tribunal noted, during the course of its deliberations, that the date that the undertaking was given was incorrectly stated to be 24 November 2016 in the allegation. The particulars provided referred to the correct date of 27 October 2016. Ms Culleton applied to amend the date in the allegation. It was submitted that there was no prejudice to Mr Just in circumstances where the correct date was contained in the particulars of the Rule 14. Mr Just did not object to the application. He explained that he had accepted the full delay, notwithstanding that the 37-day delay (before the undertaking was satisfied) was not solely his fault. The error did not affect the delay in the satisfaction of the undertaking. The Tribunal determined that there was no prejudice to Mr Just in amending the date to reflect the correct date in circumstances where he had access to the documents, the particulars made the date clear and the amendment of the date did not affect the nature of the allegation or Mr Just's defence. Further, it was a document completed and signed by Mr Just. The Tribunal noted that Mr Just did not suggest that the document had in any way been amended. Accordingly, the Tribunal

amended the date of the allegation. Allegation 5 as detailed above reflects the amended date.

Factual Background

Mr Just

21. Mr Just was a solicitor having been admitted to the Roll in December 2008. He was one of two partners and managers in the Firm and was based at the Firm's Tottenham office. He was also the Firm's Compliance Officer for Legal Practice ("COLP").

22. The annual renewal form submitted to the SRA by the Firm for the practising years 2014/15 did not state that the Firm carried out any commercial or residential conveyancing work. Further, in response to the question "Did the organisation, or individuals within the organisation, hold or receive client money or operate a client's own account as a signatory in the 12 months to 31 October 2014", the Firm responded "No".

23. Mr Just's practising certificate was suspended on 16 August 2017, following intervention by the SRA and expired on 31 October 2017 and has not subsequently been renewed. He was declared bankrupt on 27 February 2018.

Mr Brown

24. Mr Brown was admitted to the roll of solicitors in December 1999. He was also a partner and manager at the Firm since 2012. He was the Firm's Compliance Officer for Finance and Administration ("COFA").

25. Conditions were imposed on his 2017/2018 practising certificate following intervention by the SRA.

The Firm

26. The Firm started trading in May 2012 and closed in February 2018. The Firm was authorised by the SRA as a trading partnership with Mr Just and Mr Brown as the only partners.

Just and Brown Solicitors Limited

27. The company was incorporated on 13 December 2012. This company was not authorised by the SRA. The SRA considered that Mr Just was the sole director of the company under the name 'Jonathan Just' as:

- The registered address was '69 Kimberley Road' and the occupation given of the sole Director is 'Lawyer'.

- The incorporation documents dated 13 December 2012, show that the subscriber's name is 'Jonathan Alvin Just'.

28. Company records showed that the company was dissolved via voluntary strike off on 23 August 2016. On 11 May 2019, the company was restored by order of the Court. The Order related to an application made by Client A acting in her capacity as the personal representative of Mr G's estate and the court ordered the company be restored to enable Client A to bring proceedings against the company.

29. A letter of warning was sent by the SRA on 14 March 2022 to the address shown on Companies House informing Mr Just that he was required to change the name of the company and remove the word 'solicitors' from the name of the company.

30. During the course of the investigation, the FIO discovered Account F, a bank account that had not previously been disclosed by either Mr Just or Mr Brown. The investigation into Client A's complaint established that the proceeds of sale relating to Property B were paid into Account F. Account F was not a client account. When the FIO questioned them about it, they denied that they operated it. However the bank subsequently confirmed that Account F account was held in the name of 'Just & Brown Solicitors Limited' and that Mr Just was the sole signatory of the account.

Just and Brown Solicitors LLP

31. Mr Just and Mr Brown were both listed as directors for this company, which was not authorised by the SRA. On 14 March 2022 a letter of warning was sent by the SRA to both Mr Just and Mr Brown by email and post.

32. The letters sent to Just and Brown Solicitors Limited and Just and Brown Solicitors LLP were both returned to the SRA on 16 March 2022 marked 'addressee gone away'.

Witnesses

33. The following witnesses provided statements and gave oral evidence:

- Emma Whewell – Legal Adviser of the SRA
- David Levy – Forensic Investigation Officer
- Philip Noble – Barrister
- Alvin Just – Respondent
- Anthony Taylor

34. The written and oral evidence of the witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

Findings of Fact and Law

35. 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 life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Dishonesty

36. The test for dishonesty was that set out in Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 at [74] as follows:

> "When dishonesty is in question the fact-finding Tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the factfinder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."

37. When considering dishonesty, the Tribunal firstly established the actual state of the Respondent's knowledge or belief as to the facts, noting that the belief did not have to be reasonable, merely that it had to be genuinely held. It then considered whether that conduct was honest or dishonest by the standards of ordinary decent people.

Integrity

38. The test for integrity was that set out in Wingate and Evans v SRA and SRA v Malins [2018] EWCA Civ 366, as per Jackson LJ:

> "Integrity is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members … [Professionals] are required to live up to their own professional standards … Integrity connotes adherence to the ethical standards of one's own profession".

39. **Allegation 1.1 – Mr Just failed to ensure that client money received on 22 September 2014 and 31 October 2014 from the sale of Property B, was paid into or held in a client account. In doing so he: (1.1.1) breached any or all of Rules 1.1 and 1.2 (a), (b), (c), (e), (f) and (h), 13.1 and 14.1 of the SAR; (1.1.2) breached any or all of Principles 2, 4, 6, 8 and 10 of the Principles.**

Allegation 1.2 - In respect of the sale of Property B, Mr Just (1.2.1) failed to explain or account to Client A for the money received from the sale of Property B; (1.2.2) misappropriated or otherwise misused the proceeds of sale monies. In doing so he breached any or all of Principles 2, 4 and 6 of the Principles.

Allegation 1.3 – Mr Just failed to cooperate with the SRA's investigation between 13 December 2016 and 11 May 2017, in that he: (1.3.1) indicated to the SRA's Forensic Investigation Officer ("FIO") that he had not acted for Client A in any conveyancing transaction when he had so acted; (1.3.2) following a delay,

produced bank accounts of an Office Account which contained no transactions in respect of the sale of Property B, to seek to support his account that he had not acted for Client A; (1.3.3) failed to disclose Account F in the name of 'Just & Brown Solicitors Limited', held under his name as the sole signatory, into which the money from the sale of Property B was received and held and which was operating as his personal account alongside client transactions; (1.3.4) stated to the FIO that Account F was not his account when it was an account in his name, for which he was the sole signatory and which was being used by him for both personal and work related client transactions. In so doing he breached any or all of Principles 2, 6 and 7 of the Principles.

The Applicant's Case

39.1 On 18 November 2016, the SRA received a report from Client A in relation to the conduct of Mr Just in dealing with the sale of Property B, as part of acting for her in respect of the estate of her late partner Mr G.

39.2 Client A instructed the Firm, on or around 5 September 2014, to deal with the administration Mr G's estate who died on 29 January 2014. Client A's complaint to the SRA raised a concern that Property B was sold in 2014 for the sum of £350,000 but she had only received £156,252.50 from the Firm, which she received on 3 November 2014.

39.3 Client A indicated that Mr Just had acted on her behalf in dealing with Mr G's estate as well as in the property sale. Client A was Mr G's appointed personal representative and had obtained a Grant of Probate dated 8 October 2014.

39.4 The £156,252.50 received by Client A from the Firm was paid into her account on 3 November 2014. The credit entry showed as 'F/Flow JUST AND BR'.

39.5 During the FIO's first visit to the Firm on 13 December 2016, the FIO raised Client A's complaints with Mr Just. Mr Just said that he had not acted for Client A but that a former unqualified work colleague named 'Clement' had done the work for Client A.

39.6 There was a further visit to the Firm on 22 December 2016 and in response to the FIO raising some of Client A's concerns, including that the Firm had not returned the original documents, Mr Just was adamant that he had no papers and that Client A had all the originals. He stated that he had helped her out but on an informal basis and had not charged a fee. He accepted that he had prepared Mr G's will and that he had helped with the certified documents at Client A's request.

39.7 Mr Just's position was that the Firm did not operate a client account, did not hold client money and had an office account held at Barclays Bank under the account number ending 79834 (the Office Account).

39.8 At that stage, although the FIO had been provided with copies of statements for the Office Account for most of 2014, a copy of the statement for the 3 November 2014 period, when Client A had purportedly received money from an account in the name of Just & Brown, was not made available to the FIO.

39.9 Mr Just indicated that he would obtain a copy of that statement and on 18 January 2017 he sent an email to the FIO which indicated that there was an attachment of the relevant set of bank statements. However, he had not attached any bank statements. The FIO sent a further email to Mr Just to advise there was no such attachment to his email.

39.10 In an investigation meeting on 15 March 2017, Mr Just stated that his role in Client A's matter was that he gave advice on the Will and helped on probate. He stated, "I certified the will, but I did not act for her in the sale of the property". He further stated that "Clement was dealing with the matter. The house was sold and I did not act".

39.11 The bank statements provided to the FIO on 28 March 2017 for the Office Account showed no entries which reflected any receipt or payment of £156,252.50 corresponding to the amount received by Client A on 3 November 2014 from "Just & Br" according to Client A's bank statement.

39.12 The FIO therefore made further enquiries and established the following:

- On 17 September 2014 a Law Society Property Information Form was completed for Property A. This stated that the Seller's Solicitor was the Firm and the Firm's reference was 'PRO/AJ/Mr G/2014'.

- On 17 September 2014 a Requisitions on Title form was completed for Property A. The bank details provided at clause 5.2 of the form are those relating to Account F.

- On 22 September 2014 the firm acting for the purchaser, Firm H wrote to the Firm setting out the date for the exchange of contracts and the basis for doing so which included, a purchase price of £350,000 and the person named as affecting the exchange on behalf of the Seller was Mr Just.

- On or around 7 November 2014, the TR1 transfer deed form for Property A was completed. Mr G's conveyancer's name and address is given as that of the Firm, and the reference is 'Alvin Just'.

- Completion took place on 31 October 2014 and the balance of the purchase price amounting to £315,000 was transferred by Firm H to a Barclays Bank account in the name of Just & Brown, namely Account F. The deposit of £35,000 had also been paid into this account on 22 September 2014. This was a different account number to the Firm's Office Account and was not an account which had been disclosed by the Respondents to the FIO.

- An interview was then held on 11 May 2017 with the FIO and both Respondents. They indicated that they did not operate a client account because they did not hold client money (for more than 48 hours) and so there was no requirement to have a client account. Both Respondents also confirmed that any client money that they had received/dispersed within 48 hours would be reflected in the statements of the Office Account.

39.13 Ms Culleton submitted that there was no rule which permitted client money to be held in a non-client account as long as it was not held longer than 48 hours or any relevant exception to the requirement to hold client money in a client account.

39.14 In relation to Client A's matter, Mr Just stated that 'Clement', one of his associates, a colleague that he used to work with in a firm, brought Client A to him and that he had 'exhausted' everything he could say about the case and could add nothing to what he had previously said to the FIO.

39.15 During the interview Mr Just confirmed that he had stated that he had not acted in the sale of the property and he had only helped Clement. He had provided copies of the bank statements requested "to prove we actually didn't do it". Having provided the statements Mr Just considered that "all questions regarding this matter should have been answered there and then for this. As I said before, there's nothing else I can add to it. I was just trying to help"

39.16 When asked what help he had given, Mr Just stated that he gave some advice and that he had "used myself as a Lawyer, a person as a Lawyer because he wouldn't be able to do that part of the Probate without a Lawyer doing it. So I said I'd use myself as a friend for him to cover …"

39.17 Mr Just agreed that he appeared on Land Registry documents as acting for the vendor in the sale of the property.

39.18 When the FIO indicated that he had seen a Notice to Complete from Mr Just served on Firm H who acted for the purchaser, Mr Just stated that that might have happened. The FIO stated that, for all intents and purposes, Mr Just was acting in the transaction. Mr Just explained:

> "As I explained to you previously, I said the, the, the Mr Clement is not a Lawyer, and because he had asked me to help with this case, obviously they signed the contract because we had signed a contract, it was a contract for the case. And if the contract said they should complete on a certain date and they didn't, it's only natural for me to serve them with a Notice that they didn't complete on the day that they should complete since I was acting, since I was helping."

39.19 Mr Just stated that he was "holding myself up. I'm holding myself up. I agree. I'm not saying I wasn't, but looking at in retrospect as I'm saying to you now, it is true and that's why its haunting me now. It's haunting me now because of something that I did as a favour. Someone now has gone abroad. He used um all the resources. Come back to me now."

39.20 Mr Just stated that all the information that he had provided to the FIO was the same information which he was providing again on the fourth time that he was being asked about the matter and that he found it "a bit challenging to be keep repeating myself four times", despite the FIO trying to indicate that he was seeking to ask Mr Just about the additional information that had been obtained and also despite the clear statements that Mr Just had made in earlier meetings with the FIO when he had stated that he had not acted in the sale of the property.

39.21 It was then put to the Respondents by the FIO that Client A's money in relation to the sale of Property B was not reflected in the Office Account. Mr Just responded: "Because it didn't come from the office account. It came from – um and not on the

Mr Clements bank account that he was using". This statement was made following both Respondents having previously indicated that any client transactions would be reflected in the Office Account.

39.22 When the details of the use of Office Account contrasted with Account F were explored, Mr Just stated:

> "That's fine. As I said to you before um, um and I keep repeating it, this is the fourth time I've exhausted it. But yes I was helping in this matter. And as I said to you the money didn't come into Just & Brown office account. Yes I was the Lawyer on the case."

39.23 Mr Just explained that Account F was being used by Clement, and that Mr Just was "just fronting it. I was just fronting as a Lawyer. I was trying to help him".

39.24 Mr Just then said that he could not keep on answering questions about something that had happened four years before, it had also been a very emotional situation for him and he had already answered all the FIOs questions on multiple times previously and had "exhausted everything [he could] say about this case".

39.25 On 29 December 2016, Mr Just had sent an email to Client A, stating (amongst other things):

> "I had nothing to do with buying and selling your property [Client A] for £350,000 and then £500,000 God is my witness. [Client A] I know you know that there is no way I could have bought and sold your property as you had the Title Document in your possession for a week before you signed it. You came to my office with Daniel and signed it. I am still trying to get around it how you could have accuse me of all these things the SRA investigating me for when there is no way I could have sold your property for £350,000 then £500,000 this is crazy".

39.26 In her statement dated 29 June 2017, Client A stated that Mr Just informed her that "the balance would be paid later because the buyer didn't have the whole lot at once". Client A stated that she did not receive a completion statement from Mr Just in relation to sale of Property B and was not given an estate account in relation to the value of Mr G's estate.

39.27 The bank statements relating to Account F confirmed:

- £35,000 was received into Account F from Firm H on 24 September 2014 (leaving a balance of £27,151.65)
- £2,500 and £500 went out to Client A on 22 and 25 September 2014
- £315,000 was received from Firm H on 31 October 2014 (leaving a balance in the account of £294,381)
- £156,252.50 went out to Client A on 3 November 2014 under the reference '666957*REF: PROBA*

- Fees were taken out in respect of [Mr G] 20237471/8 [Property B] £250 and £1,200 on 3 November 2014

- A transfer of £2,600 was made on 3 November 2014 with the reference 'GE Money - 13457833/8 [Property B]'

- A transfer of £97.26 was made on 24 November 2014 with the reference 'GE Money Servicing 13457833/8 [Property B]

39.28 Ms Culleton submitted that it could be reasonably inferred that the transfers out to Client A and the other transactions were made by Mr Just since he was the sole signatory to Account F and ultimately admitted undertaking work on the matter.

39.29 Ms Culleton highlighted the following transactions as examples of personal transactions passing through Account F around the time of the proceeds of sale from Property B being received into Account F and Client A receiving the funds detailed above:

Date	**Transaction**	**Credit**	**Debit**
26.09.14	Ikea		243.65
02.10.14	Sainsbury's S/mkts		27.06
03.10.14	Tesco		97.00
03.10.14	Tesco		278.00
06.10.14	Mortgage payment		1000.55
16.10.14	Suited and Booted		530.00
17.10.14	Bcard Commercial		44.38
20.10.14	Mothercare UK Ltd		183.97
20.10.14	Mothercare UK Ltd		231.97
20.10.14	Mothercare UK Ltd		620.00
22.10.14	Perfect Smile DNTL		170.00
28.10.14	A1 Travel Deals		200.00
29.10.14	Sainsburys S/mkts		19.50
31.10.14	Asda Stores		13.79
31.10.14	Asda Stores		93.59
03.11.14	The Body Shop		22.55
03.11.14	Sainsburys S/mkts		26.61
03.11.14	Capital Restaurant		34.30
03.11.14	Tesco		77.14
03.11.14	AJ (account and sort code)		11,000
04.11.14	Clarks Shoes Ltd on 2 Nov		95.00
05.11.14	McDonalds		10.76
02.12.14	Halifax Mort Rec-c		1,000
02.01.15	Halifax Mort Rec-c		1,000

39.30 Ms Culleton highlighted the following transactions from Account F as examples of what appeared to be client/professional transactions:

Date	Transaction	Credit	Debit
02.12.13	The Law Society		440.00
07.01.14	Rexton Law LLP '625689 Askler'	14,750	
20.01.14	Rexton Law LLP '625689 Askler'	6,000	
20.01.14	Rexton Law LLP '625689 Askler'	259,500	
19.08.14	Juliet Bellis 667119 deposit 98	28,750	
22.09.14	'[Client A] from Alvin'		2,500.00
24.09.14	Rexton Law LLP 814998 Sharer	35,000	
25.09.14	[Client A]		500.00
31.10.14	Rexton Law LLP 821539 Sharer	315,000	
03.11.14	[Client A] 666597 Ref Proba TFR		156,252.50
03.11.14	[Mr G] 20237471/8 Property B TFR		1200.00
03.11.14	'GE money' 13457833/8 Property B TFR		2,600
03.11.14	The Law Society		352.00

Allegation 1.1

39.31 Ms Culleton submitted that the Firm, as admitted by both Respondents, did not have a client account. Contrary to what Mr Just indicated to the FIO, it is clear that in respect of Client A and the sale of Property B on her behalf, money was received from the sale of the property into Account F. Whilst some of the monies were transferred out to Client A, a significant balance remained. As detailed, Account F was not a client account. Mr Just thus failed to ensure client money was received or held in a client account.

39.32 Ms Culleton submitted that by virtue of the Firm not having a client account and yet handling Client A's money from the sale of Property B in the way it did, Mr Just was in breach of the Accounts Rules as alleged.

39.33 In handling client money in the way that he did, Mr Just had none of the basic yet fundamental safeguards established and required by the Accounts Rules in place. That failure meant that he failed to act in Client A's best interests in breach of Principle 4. Nor indeed was such conduct running his business effectively and in accordance with proper governance and sound financial and risk management principles or protecting client money and assets, in breach of Principles 8 and 10.

39.34 His conduct fell well below the basic ethical standards in dealing professionally with clients and their money. In the circumstances that Client A's money went into what appeared to be a mixed personal and professional account of Mr Just, but which was

certainly not a demarcated client account and where Mr Just was using money in the account as his own, that was conduct which was simply not living up to basic professional standards expected of professional persons.

39.35 Ms Culleton submitted that Mr Just's flagrant breaches of the Accounts Rules and his failure to maintain professional standards was exacerbated by the fact that Mr Just was far from open and transparent with the FIO, claiming first that he had not acted for Client A, then that he had just helped with the Will but had not acted in the conveyancing, that the Firm had not taken any fee for the work and the Firm did not hold client money, but eventually conceding that he had been involved in the conveyancing although still maintaining the rest of his position, when the evidence clearly exposed the reality in stark contrast to what Mr Just was claiming. In those ways Mr Just was certainly not being scrupulous about accuracy or taking particular care not to mislead; in fact it was quite the contrary. In acting as he did, Mr Just's conduct lacked integrity in breach of Principle 2.

Allegation 1.2

39.36 The statements of Bank Account F show no further payments were made to Client A following the £156,252.50 transferred to her on 3 November 2014 (£2,500 and £500 having previously been transferred to her prior to completion on 22 and 25 September 2014). That, combined with Account F being used for personal expenses supported the allegation that Mr Just failed to explain or account to Client A for the total price realised for Property B and received into Account F.

39.37 Client A, it was submitted, was left in the dark about what monies were due to her following the sale of Property B, and under the estate of Mr G, in circumstances where Mr Just had received £350,000 into an account which was not a client account and had transferred 3 amounts totalling only £159,252.50 to Client A whilst indicating to Client A that 'the balance would be paid later because the buyer didn't have the whole lot at once', when in fact he had received the full amount from the sale of the property.

39.38 By failing to explain or account to Client A in order that she could understand what monies to which she was rightly entitled following the sale of Property B, Mr Just also failed to act in her best interests in breach of Principle 4, and failed to behave in a way that maintained public trust in the profession in breach of Principle 6. A solicitor would be expected to provide such information to a client and a failure to do so undermined the public trust in the profession.

39.39 In circumstances where Client A's money went into what appeared to be a mixed personal and professional account of Mr Just where Mr Just was using money in the account as his own, to fail to explain or account to Client A for the money received from the sale of Property B, was to act in total defiance of the principle of integrity; it was most certainly not adhering to the ethical standards of the profession and was far from being scrupulous about accuracy. A solicitor acting with integrity would have ensured that his client was fully informed as to what monies were left following the sale of a property, usually by a completion statement. In failing to do so, Mr Just's acted without integrity in breach of Principle 2.

39.40 The statements for Account F showed that Client A's money was mixed with funds relating to other matters. The sale of Property B completed on 31 October 2014 and the sum of £315,000 was received on that date. Following the transfer to Client A on 3 November 2014, the remaining monies stayed in Account F leaving a balance of £130,172.96. As detailed above, the remaining monies were used by Mr Just on other transactions and for his personal expenditure.

39.41 By using Client A's sale monies for other transactions Mr Just misappropriated and/or otherwise misused Client A's money. Such conduct was not acting in her best interests in breach of Principle 4. Members of the public would not expect a solicitor to use client monies otherwise than in accordance with the Accounts Rules. In doing so, Mr Just had failed to maintain the trust the public placed in the profession in breach of Principle 6.

39.42 A solicitor acting with integrity would have provided Client A with details of what was outstanding and made payment to the client before using client funds for other transactions. A solicitor acting with integrity would have ensured that any client money was ring-fenced so that the funds were not mixed with other transactions as can be reasonably inferred was the case here. Mr Just was thus in breach of Principle 2 in this regard.

<u>Allegation 1.3</u>

39.43 Ms Culleton submitted that it was apparent from the exchanges between Mr Just and the FIO that Mr Just's position had changed significantly from saying initially to the FIO that he did not act for Client A in the sale of Property B, to saying that he did, although still seeking to maintain he was just fronting it on 'Clement's' behalf.

39.44 His position in respect of Account F was that it was an account used by 'Clement' although his answers came across as non-committal and circular. It was Mr Just's position that he had simply helped 'Clement' with the matter as a favour and that the Office Account with nothing relating to this client or matter showed "we didn't actually do it".

39.45 Ms Culleton submitted that the following called Mr Just's account into question:

- Whilst Client A confirmed that she did know of 'Clement' and the transfer dated 31 October 2014 signed by Client A was witnessed by Clement, Client A stated that Clement had been introduced to her by Mr Just and that in fact it was Mr Just who had acted for her alone. She produced a Letter of Authority, dated 5 September 2014, which confirmed that she had instructed the Firm to represent her in relation to "Probate/Legal Matter".

- Account F had not previously been disclosed to the FIO by the Respondents, Mr Just appearing to seek to indicate that he, or the Firm, had not had conduct of Client A's matter because there was nothing passing through the Office Account in respect of it.

- Barclays confirmed that Account F was in the name of 'Just & Brown Solicitors Limited' and was in use between 15 January 2013 and 26 August 2016. Barclays

also confirmed that its records indicated that 'Mr Alvin Jonathan J Just' was the sole signatory of the account, the Address for the Account being 'The Director, Just & Brown, 69 Kimberley Road, London, N18 2DW'.

- A review of Account F indicated that this account was being used for client matters (over and above Client A's matter), without any of the protections of a client account, as well as Mr Just using it for his personal matters. There were payments from HMRC and other solicitors which appeared to relate to purchase monies. There were also payments to the Law Society and to clients and entries entitled 'fees' and others appearing to relate to probate matters. In addition to those 'professional' or work-related transactions, there were also entries for what appeared to relate to Mr Just's general living expenses, including mortgage payments, VAT repayments, payments in Jamaica, payment for dental treatment, shopping at clothes/shoe shops, supermarkets, restaurants, flights, petrol, council tax the cinema and so on.

- Mr Just's claim to the FIO in interview that Account F was used by Clement thus appeared to be untrue; this was an account in Mr Just's name only and had personal and work transactions which related to Mr Just.

39.46 Furthermore, Mr Brown indicated, in response to a production notice served on the partners on 6 June 2017, that "to the best of my knowledge and belief, I have not done any transaction with that account" which, had it been a general firm account, Mr Brown would, or might, have used it and would, or should, have been aware of it.

39.47 Ms Culleton submitted that it was evident that Mr Just had failed to deal with his regulator, or his regulatory obligations, in an open and cooperative manner in breach of Principle 7.

39.48 His conduct diminished the trust which the public placed in him and in the legal profession. The public would expect him to have basic safeguards in place, as required by the Accounts Rules, to keep client money safe and to deal with it in an entirely professional manner, which he failed to do. Similarly, the public would expect him to have cooperated with the SRA's investigation and not to have been at best cagey and misleading in his answers to the FIO's questions and requests. In acting as he did, he had failed to maintain the trust the public placed in the legal profession in breach of Principle 6.

39.49 A solicitor acting with integrity would not have given explanations to his regulator that he knew to be misleading. In doing so, Mr Just had failed to act with integrity in breach of Principle 2.

Dishonesty

Allegation 1.2.2

39.50 Ms Culleton contended that from the bank account statements for Account F, it could be inferred that Mr Just had used Client A's money for other transactions unrelated to Client A and that he therefore misappropriated client money. There were no further payments to Client A following the last transfer on 3 November 2014 and no

explanation was subsequently given to Client A as to why she did not receive any further funds. Client A complained to the SRA that she was owed the sum of £190,000. This supported that she did not, for example, instruct Mr Just to use the remaining money from the proceeds of sale and equally it indicated that he had not explained what further money she was entitled to, if any.

39.51 By 23 December 2014 the account shows that the funds remaining were £2,604.91 which did not relate to instructions given by Client A to Mr Just. It followed that this conduct could be nothing other than dishonest.

Allegation 1.3

39.52 The evidence showed that Mr Just's assertions to the FIO during the investigation were untrue and that Mr Just knew or must have known that they were untrue:-

- he indicated that he did not act for Client A in the sale of Property B, when he had so acted and knew he had. Indeed, the basic indication that the Firm did not do any conveyancing work and did not receive or hold client money was something which Mr Just would have known to be untrue;

- in seeking to present the Office Account statements as evidence that he, and the Firm, had not acted for Client A because there was no such transaction or associated fees indicated in that Office Account, he was seeking to mislead the FIO, knowing that the transactions would be evidenced in the account statements of Account F (which he did not disclose) and knowing that in fact a fee had been charged by him to Client A;

- he would have known that Account F was an account held in his name, which he had sole control over and which received client money and was also used as his own personal account and yet it was not disclosed to the FIO. When it was discovered and put to Mr Just, he denied any substantive link with Account F and claimed that he was just fronting it for Clement. The details of who controlled that account from the bank and the bank statements show an entirely different picture.

39.53 Ms Culleton submitted that in the circumstances, his conduct could not be considered as anything other than dishonest.

The First Respondent's Case

39.54 In his witness statement dated 19 May 2022, Mr Just accepted that he had acted in various capacities for Client A. Client A informed Mr Just that she was unable to deal with the affairs of the Estate including the repairs, as she was dealing with some issues. As a result, Client A signed a Letter of Authority granting Mr Just the authority to conduct repairs, obtain a valuation report, instruct Estate Agents and all other relevant duties in relation to Property B.

39.55 A valuation report valued the property at £230,000 - £240,000. When Client A expressed that she had thought the valuation would be higher, Mr Just explained that the property would be worth much more if necessary repairs were undertaken. Mr Just

informed Client A that the repairs would cost approximately £25,000 - £30,000. This would lead to a likely increase in value of £100,000.

39.56 Client A instructed Mr Just to carry out the repairs. It was agreed that if the value of Property B rose to £300,000 or more, Mr Just would receive 30% of the proceed of sales including the costs for repairs. Client A and Mr Just also agreed that Mr Just would pay for the costs for the repairs. Property B was sold for £350,000.

39.57 Client A was incredibly happy with the agreement and the percentage. Mr Just considered that this was "a win-win situation for both of us".

39.58 Following completion, Client A thanked him for his services and thereafter moved abroad. Mr Just explained that he did not hear anything further from Client A until 2016, two years after completion.

39.59 Mr Just suggested that the Tribunal should consider why Client A had waited for three years to make a complaint if it was the case that Mr Just had defrauded her out of £190,000. Mr Just considered that the complaint was false and that "her mouth is like an open sepulchre and her mind and heart devise wicked imaginations that is an attempt to destroy me".

39.60 Mr Just stated that Client A returned to the UK in 2016, "having squandered and spent her money". Client A attended Mr Just's office and asked for £50,000. When asked what had happened to the proceeds of sale she had received, Client A stated that it was finished and that she was on benefits. Client A then asked again for £50,000 stating that she knew that Mr Just had purchased Property B for £350,000 and then sold it for £500,000. Client A believed that Mr Just had made a lot of money on Property B and that she was entitled to her share.

39.61 Mr Just explained that Client A was angry when she left his office. Thereafter she started "bombarding" him with phone calls, accusing him of selling Property B for £500,000 and making a profit of £150,000. Her behaviour became erratic and irrational. Mr Just expressed that he was frustrated as he had helped Client A and had achieved the best sale price for Property B. He had taken his agreed fee. Mr Just explained that he was so concerned that he contacted Clement who was Client A's friend/boyfriend.

39.62 In her witness statement, Client A stated that she had received £150,000. This was not true. Client A had received £158,000. Mr Just submitted that Client A was not a credible witness. She had deliberately withheld important information about the letter of authority she had signed and the fee agreement they had entered into. She had also "wilfully and deliberately failed to mention" disbursements such as (i) the Estate Agents fee, (ii) the discharge of two mortgages on Property B, (iii) a £25,000 payment that she had instructed Mr Just to make to Clement, and (iv) a payment of £25,000 made to her. In addition, Client A was upset that Mr Just had told her that she had received more than she was entitled to.

39.63 Mr Just considered that the real motivation for Client A's complaint was his refusal to give her an additional £50,000. Client A had stated that if Mr Just paid her £50,000, she would withdraw her complaint. Further, she blamed him for "losing out" on the

proceeds of a life insurance policy, notwithstanding that the policy could only be paid to the deceased's next of kin; Client A was not his next of kin.

39.64 Client A considered that Mr Just had benefited from the sale of Property B for £500,000, however he had nothing to do with that sale; it was sold by the person who had purchased Property B.

39.65 Mr Just believed that as a result of Client A's false allegations, he had suffered professional and reputational damage. His practising certificate had been suspended resulting in the loss of a significant income. He felt compelled to leave the UK due to the shame and disgrace the false allegations had caused.

39.66 In an email dated 29 December 2016, Client A had stated: "I would like to apologise for putting you under stress. I don't want you to lose your profession. I didn't understand the impact of my actions. If I had known that you would lose everything, I would not have reported you. You know the law better than me. How can [I] help you out of this mess?"

39.67 Now, six years later, Client A was trying to "destroy" Mr Just with "the same false allegation".

39.68 A simple arithmetic calculation evidenced the falsity of Client A's claim. She stated that Mr Just had defrauded her of £190,000. Property B was sold for £350,000 and Client A had received £158,000 from the proceeds of the sale leaving £192,000. The disbursements such as the mortgages and Estate Agents fees came to approximately £37,000. The repairs Property B were in the region of £30,000. £50,000 had been given to Client A and Clement (at Client A's direction). The total of the disbursements detailed was £117,000, leaving a total from the sale proceeds of £73,000. It was therefore not possible for Client A to have been defrauded in the sum of £190,000. Further, the disbursements detailed did not account for the fees that Mr Just was entitled to as a result of the fee agreement.

39.69 Further, Mr Just submitted that it was clear that the SRA had failed to take account of the terms of the Will. Client A was entitled to 80% of the estate after the payment of testamentary expenses, debts and legacies. The monies that she had received exceeded the 80% to which she was entitled. Mr Just explained that as she was his friend's fiancée he had "no problem giving her more than she was entitled to".

39.70 As regards the allegations that Mr Just's conduct was in breach of the Accounts Rules, Mr Just repeated the submissions above regarding the monies being subject to a Cestui Que Vie trust. He had complied with the terms of the Will.

39.71 The Will stated:

> "MY TRUSTEES JUST AND BROWN SOLICITORS may at their absolute discretion use all or any part of the income of a minor child's share for the child's advancement maintenance education or other benefits.

> MY TRUSTEES may from time to time invest trust money in any way in which they in their absolute discretion think fir as if they were the beneficial owners thereof."

39.72 The proceeds of the sale of estate property were paid into the estate trust account. Under the terms of the Will, Mr Just, as a trustee was entitled to use the proceeds as if he were the beneficial owner thereof.

39.73 Mr Just submitted that his treatment of the money was in his role as a trustee and therefore was outside of SRA regulation. Mr Just did not accept that when he received the monies (acting as a solicitor for the conveyance) that those monies were client monies. Mr Just did not consider that his duties as a solicitor superseded his duties as a trustee.

39.74 Mr Just did not accept that he was under any duty to explain to the FIO that the monies received were subject to a trust. It was not accepted that the matter was only raised by him in his skeleton argument of 14 July 2022 as it was an "entirely fabricated account", Mr Just having no other explanation for not holding the monies in a client account.

39.75 As regards the allegation that he did not cooperate with the SRA, Mr Just submitted that that matter had already been considered by both the County Court and the High Court. He had been exonerated by both. He had answered the questions asked by the FIO that related to matters for which he was regulated. He was under no duty to tell the FIO about the trust, as that was not a regulated activity. Likewise, Mr Just was under no obligation to tell the FIO about Account F, as this was a trust account, not subject to SRA regulation.

39.76 Mr Just denied that he had breached the Principles or Accounts Rules as alleged. He submitted that the allegations against him ought to be dismissed.

39.77 In closing, Mr Just submitted that without Client A, the SRA had no case on allegations 1.1, 1.2 and 1.3. As Client A had not attended the hearing, it was not possible for him to have a fair hearing; he had been unable to cross-examine Client A.

39.78 The SRA's case had been predicated on the complaint made by Client A, but had not been substantiated by her. Mr Just considered that the SRA was motivated by "malice, harassment and victimisation". Mr Just referred the Tribunal to an email from Client A in which she stated that she had not expected things to go this far, and that she felt bad for what Mr Just was going through. Client A queried how she could help Mr Just.

39.79 Mr Just reiterated his evidence as regards acting in his capacity as a trustee and therefore being outside of SRA regulation.

39.80 Mr Just referred the Tribunal to a number of payments made. He submitted that Client A was paid £189,000 which exceeded her entitlement. Ordinary and decent people would not find that he was dishonest when he had paid her more than she was due.

The Tribunal's Findings

39.81 Allegation 1.1

39.81.1 Rule 1.1 of the Accounts Rules stated: "The purpose of these rules is to keep client money safe. This aim must always be borne in mind in the application of these rules".

39.81.2 Rule 1.2 of the Accounts Rules required:

> "You must comply with the Principles set out in the Handbook, and the outcomes in Chapter 7 of the SRA Code of Conduct in relation to the effective financial management of the firm, and in particular must:
>
> (a) keep other people's money separate from money belonging to you or your firm;
>
> (b) keep other people's money safely in a bank or building society account identifiable as a client account (except when the rules specifically provide otherwise);
>
> (c) use each client's money for that client's matters only;
>
> ….
>
> (e) establish and maintain proper accounting systems, and proper internal controls over those systems, to ensure compliance with the rules;"

39.81.3 Rule 13.1 of the Accounts Rules required: "If you hold or receive client money, you must keep one or more client accounts (unless all the client money is always dealt with outside any client account in accordance with rule 8, rule 9, rule 15 or rule 16)."

39.81.4 Rule 14.1 of the Accounts Rules required: "Client money must without delay be paid into a client account, and must be held in a client account, except when the rules provide to the contrary (see rules 8, 9, 15, 16, 17 and 19)."

39.81.5 It was the SRA's case that Client A was a client of the Firm. It was Mr Just's case that the monies received from any sale were not received in his capacity as a solicitor, but were received in his capacity as a trustee and were thus not monies that the SRA could regulate. During his closing, Mr Just stated that Client A was not a client.

39.81.6 The Tribunal found that in order to consider whether the Accounts Rules had been breached as alleged, it firstly had to determine whether Client A was a client.

39.81.7 In his witness statement dated 19 May, Mr Just stated:

> "it is accepted that I was the family solicitor. I have acted in various capacity for [Client A] … she was unable to deal with the affairs of the Estate including the repairs as she was dealing with some issues. As a result, [Client A] signed a Letter of Authority granting me the authority to conduct repairs, obtain valuation report, and instruct [an] Estate Agent and all other relevant duties to activities in regard to the property in question."

39.81.8 In evidence, Mr Just agreed that he had completed the Requisitions on Title and Completion Information Form in relation to the sale of Property B. He stated that he was both the solicitor and trustee. When asked if he accepted he was the solicitor in the sale he stated that he had acted in accordance with the Will; according to the Will he was a trustee. Mr Just further stated: "I acted in my capacity as a solicitor for the sale. I was not acting as a solicitor when I was acting as a trustee".

39.81.9 When asked why he had sent the grant of probate to the other solicitors, Mr Just stated: "I act in all capacities".

39.81.10 The Tribunal considered the contemporaneous documents. It noted in particular (amongst other documents):

- The client authority from Client A dated 5 September 2014, in which Client A confirms that she has instructed the Firm to act for her in relation to her outstanding "probate/legal" matter.
- The Requisitions on Title and Completion Information Form signed in the name of the Firm.
- Correspondence between the Firm and the purchaser's solicitors (both by email and on the Firm's letterhead) regarding the sale of Property B.
- The Firm being detailed as the seller's solicitor in the Law Society Property Information Form dated 17 September 2014.
- Notice to Complete issued by the Firm dated 20 October 2014.
- Mr Just being the reference on Land Registry Form AP1 – Application to change the register dated 7 November 2014.

39.81.11 The Tribunal found that the contemporaneous documents together with Mr Just's written and oral evidence proved, without doubt, the Mr Just had acted for Client A in his capacity as a solicitor.

39.81.12 It was also Mr Just's case that he was acting in his capacity as a trustee and that any monies received were received pursuant to the trust. He had directed the Tribunal on numerous occasions throughout his evidence and submissions to the Will. In addition to the clause detailed in Mr Just's submissions above, the Will also stated:

> "I APPOINT [CLIENT A] … to be the Executrix of this my will and Trustee of my estate …
>
> I GIVE Eighty Percent 80% of the residue of my estate (after payment of my funeral and testamentary expenses debts and legacies) to my partner [CLIENT C].
>
> I GIVE Ten Percent (10%) of my residue to [Child A] and Ten Percent (10%) to [Child B] upon them reaching the age of 18.
>
> ….
>
> WHERE MY Trustees are authorised or required to pay a legacy to any person who has not reached 18 years at the time when the legacy is payable my Trustees may pay the same to any parent or guardian of such person for the benefit of such person without seeing to the application of it and the receipt of such parent or guardian shall be a sufficient discharge to my Trustees."

39.81.13 The Tribunal found that if any of the monies were subject to a trust, it could be no more than 20% of the sale proceeds. It was clear from the Will, that it was not intended that the legacy to Client A was subject to a trust. The only sums subject to a trust were those due to Child A and Child B. Accordingly, the Tribunal found that even on Mr Just's own case, the sums paid into Account F were not subject, in their entirety, to a trust.

39.81.14 Further, and in any event, the Tribunal did not accept that Mr Just had received the proceeds of sale (or any of it) in his capacity as a trustee. Firstly, as detailed above, Mr Just was acting in his capacity as a solicitor. Secondly, Mr Just was not a trustee. To the extent that anyone other than Client A was appointed as a trustee, that was the Firm – Just and Brown Solicitors – not Mr Just in any personal capacity. There was nowhere in the Will where Mr Just was named personally as a trustee.

39.81.15 Having determined, for the reasons stated above, that the monies were received by Mr Just in his capacity as the solicitor for Client A, the Tribunal determined that those monies were client monies and thus subject to the Accounts Rules and SRA regulation.

39.81.16 The Tribunal determined that Rule 1.1 was not capable of being breached. It was a statement that set out the purpose of the Accounts Rules and did not place any positive obligation on solicitors.

39.81.17 Mr Just had failed to keep or pay the monies in an identifiable client account. The bank statement for Account F demonstrated that he had not kept the monies separate from monies belonging to him and used for his own personal purposes. There were no proper accounting systems or internal controls over those systems to ensure compliance with the Accounts Rules. The Tribunal thus found that Mr Just had failed to comply with the Accounts Rules as alleged.

39.81.18 The purpose of the Accounts Rules was to keep client monies safe. The Tribunal determined that in failing to hold the monies in a client account, the monies were not subject to the protection afforded to monies held in a client account by virtue of the Accounts Rules and were thus vulnerable. Accordingly, the Tribunal found that Mr Just had failed to act in his client's best interests in breach of Principle 4 and had failed to protect client monies and assets in breach of Principle 10. It was plain that Mr Just had failed to run his business or carry out his role in the business effectively and in accordance with proper governance and sound financial and risk management principles, in circumstances where he was receiving client monies when the Firm did not operate a client account in breach of Principle 8.

39.81.19 Members of the public would expect a solicitor who was receiving client monies to hold those monies in a client account so that they were protected by the Accounts Rules and subject to SRA regulation. In failing to hold the monies in a client account, Mr Just had failed to uphold the trust the public placed in him and in the provision of legal services in breach of Principle 6.

39.81.20 The Tribunal found that a solicitor acting with integrity would not have received client monies and then sought to put them beyond regulation by placing them in an account that was not a client account. Nor would a solicitor of integrity, in the knowledge that they were receiving client monies, operate their firm without a client account. In doing so, Mr Just had failed to act with integrity in breach of Principle 2.

39.81.21 Accordingly, the Tribunal found allegation 1.1 proved in its entirety.

39.82 Allegation 1.2.1

39.82.1 The Tribunal found that it was plain that Mr Just had failed to account to Client A. He had transferred sums of money to her but had not provided her with any information as to the amount of any testamentary expenses or other disbursements. He had not informed her of the amount that she was due to receive, or of any distribution of the monies received.

39.82.2 The Tribunal found that in failing to explain or account to Client A, Mr Just had failed to act in her best interests in breach of Principle 4. It was clearly not in her interests to have none of the information detailed above in relation to her legacy, both as a beneficiary under the Will and the Executrix of the Will. Members of the public would be extremely concerned to know that a solicitor, having received monies for distribution as part of an estate, had failed to account to the Executrix and major beneficiary as regards those monies. Such conduct, the Tribunal found, failed to maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6. That such conduct lacked integrity in breach of Principle 2 was plain. Solicitors of integrity did not fail to account to clients for monies they received on behalf of their clients. Accordingly, the Tribunal found that Mr Just's conduct was in breach of Principle 2 as alleged.

39.82.3 The Tribunal thus found allegation 1.2.1 proved on the balance of probabilities.

39.83 Allegation 1.2.2 and Allegation 2 (dishonesty)

39.83.1 The Tribunal considered whether Mr Just had misused or misappropriated the monies as alleged at allegation 1.2.2. It was the Applicant's case that the bank accounts showed Mr Just using monies from the proceeds of sale for personal transactions and that from balances in Account F, it could be inferred that Mr Just had used Client A's monies for transactions that did not relate to Client A.

39.83.2 Mr Just submitted that Client A had, in fact, received more monies than she was due to receive under the Will. He took the Tribunal through the bank statement for Account F, highlighting payments which it was submitted by him were made (i) to Client A; (ii) to Client A's partner on her instructions; (iii) as an investment for the minors; and (iv) legitimate disbursements (e.g., probate fees, estate agent fees). Mr Just also referred to an agreement made by him with Client A for him to receive a percentage of the sale proceeds if he renovated the house and increased its value to £300,000 or more.

39.83.3 The Tribunal noted that the Applicant had not been able to quantify with any particularity what monies Client A was in fact due. The Tribunal also noted that Client A's evidence as to what she was entitled to had varied. There were amended particulars of claim for Client A, where it was alleged that Mr Just/the Firm failed to account to Client A for a shortfall of around £193,853.98, Client C having received £156,000. It was further alleged that as the onward sale was for £500,000, the sale at £350,000 was at an undervalue.

39.83.4 In her statement to the SRA, Client A stated that she believed that she was owed £190,000 or more from the sale proceeds. The Tribunal also saw an email exchange between Client A and Mr Just where Client A apologises for putting Mr Just "under stress" and explains that she wanted original documents that he had not provided and that if Mr Just "give me back the documents that will settle everything". The Tribunal noted that there was no evidence of any complaint prior to 2016, two years after Property B had been sold.

39.83.5 Client A did not attend the proceedings, notwithstanding that she had provided a witness statement to the SRA. Mr Just was therefore deprived of his opportunity to cross-examine her. Whilst the SRA, during cross-examination of Mr Just made it plain that his evidence as regards the payments and the agreement was not accepted, the SRA had failed to prove that the payments Mr Just described as being made to or on behalf of Client A, had in fact not been made on her instructions. Nor had the SRA been able to prove that the agreement referred to by Mr Just did not exist. Had Client A attended, these matters could have been put to her.

39.83.6 In the circumstances, the Tribunal could not be satisfied that (i) the agreement did not exist; (ii) the monies that Mr Just said had been paid on behalf of Client A or the estate had not been so paid; or (ii) Client A had not received all that she was entitled to.

39.83.7 Accordingly, the Tribunal found that the Applicant had failed to discharge its burden of proving that Mr Just had misused or misappropriated the proceeds of the sale of Property B. Thus the Tribunal dismissed allegation 1.2.2 in its entirety, including the allegation that Mr Just's conduct had been dishonest in that regard.

39.83.8 Accordingly, the Tribunal found allegation 1.2.1 proved on the balance of probabilities. The Tribunal found allegation 1.2.2 not proved and dismissed that allegation, including allegation 2 linked to 1.2.2 that Mr Just's conduct had been dishonest.

39.84 Allegation 1.3 and Allegation 2 (dishonesty)

39.84.1 The Tribunal found that one more than one occasion, Mr Just informed the FIO that he had not acted for Client A in the sale of Property B. On 13 December 2016, at his first meeting with the FIO, Mr Just stated that he had not acted for Client A, but that 'Clement', a former unqualified work colleague, had acted. On 22 December 2016, Mr Just stated that he had helped Client A out but that it was on an informal basis and he had not charged any fees. When asked to if he could account for the entry in Client A's account of monies from "Just & Br", he stated that he could not understand that.

39.84.2 During his interview on 15 March 2017, when asked to clarify what work he had undertaken for Client A as a solicitor, Mr Just stated: "I did give advice on the will and did help on the probate. I certified the will but I did not act for her in the sale of the property". When it was put to him that he had handled the sale proceeds he stated: "The house was sold and I did not act".

39.84.3 In his interview on 11 May 2017 Mr Just stated: "So in terms of that case I have exhausted everything I can say about that case. Because there's nothing more I can add to what I have said to you before." When it was put to Mr Just that he was "absolutely resolute" in saying that he did not act in the sale of Property B, Mr Just stated: "That is what I said to you. I told you that in only helped, because this guy was not adverse (sic) in Probate …".

39.84.4 During cross-examination Mr Just did not accept that he had told the FIO that Client A was not his client. He stated: "I knew he was on a fishing expedition so I was wary about my answers. There had been a number of complaints, I did not trust the SRA who had sent someone without divulging information to me. I was not prepared to answer the questions properly. It was correct that she was not my client. I did not know her, I knew her fiancé. It so happened that Clement also knew her. I was helping her out not only financially, but in other ways."

39.84.5 When it was put to him that on the first visit he had been adamant that he had not acted for Client A, Mr Just stated "no, what I said at the time was that I was not acting for the client. That was a fact." It was not accepted that he told the FIO he was helping Client A on an informal basis. Mr Just stated that he was under no obligation to tell the FIO anything. Mr Just had not provided any emails as: "I knew I was dealing with the SRA" and that "the SRA was in cahoots with Mr Noble".

39.84.6 On further questioning about telling the FIO he had not acted in the sale, Mr Just stated:

> "they were not my words. I told him I helped out. I did not say I did not act. I said I helped Clement the paralegal. At the same time I showed him certain things. I did not provide all the information that he came to see. He was trying to get information from me, and I was trying to get information from him. We were both playing the same game. I had a number of roles. Mr Levy was not specific. To get specific answer he needed to ask a specific question."

39.84.7 Mr Just further explained that when he said he had not acted, this was in the context of the sale of Property B for £500,000. He had not acted in that sale.

39.84.8 As detailed above, the Tribunal found that Mr Just had acted in the sale of Property B. It was clear, on the face of the contemporaneous documents that he had acted in the sale. The Tribunal did not accept Mr Just's evidence that he merely "fronted" the sale as a lawyer as 'Clement' was not qualified. It was clear from Mr Just's witness statement that he had been instructed in the sale of Property B.

39.84.8 The Tribunal did not accept that the transcript of the interview was incorrect, or that Mr Levy had made incorrect notes of conversations had with Mr Just regarding whether he was acting. Mr Just's account had been inconsistent. Having stated that he was helping her on an informal basis and had charged no fees, he later complained that the SRA expected him to work like a slave for no fees. During the course of his evidence, he had both accepted and denied that he acted for Client A. During his closing he denied that Client A was his client.

39.84.9 The Tribunal found that Mr Just had told Mr Levy, on a number of occasions, that he had not acted in the sale of Property B, when it was clear that he had so acted.

39.84.10 In his interview on 11 May 2017, Mr Just stated:

> "… I said I helped and you asked me can I provide a copy of the bank statements to prove that we didn't actually do it. And you asked me to go back to 2014. And I went, and it took me some time to get it. I went to the bank and chased it … and I provided that to you. So all the questions regarding this matter should have been answered there and then for this. As I said before, there's nothing else I can add to it"

39.84.11 When the office account statements were provided, there was no record of any payments made to Client A.

39.84.12 The Tribunal found that Mr Just knew that the proceeds of sale for Property B would not show in the office account statements provided. It was plain, from Mr Just's answer in interview, that he had provided the statements in order to "prove that we didn't actually do it".

39.84.13 Mr Just did not disclose the existence of Account F to the FIO – he knew the proceeds of sale of Property B had been deposited into Account F, indeed, he had provided the details of Account F in the conveyancing documentation. When questioned about the sale proceeds of Property B going into Account F, Mr Just stated:

> "As I said to you before … I keep repeating it, this is the fourth time I've exhausted it. But yes, I was helping in this matter. As I said to you, the money didn't come into the Just and Brown office account. Yes, I was the lawyer on the case."

39.84.14 Mr Just stated that Account F was an account that 'Clement' was using and that he (Mr Just) was "just fronting it" as a lawyer. The Tribunal did not accept that Mr Just was simply fronting Account F. During the course of his evidence and closing submissions, Mr Just referred to transactions that could be seen on the account that were of a personal nature with expenditure that Mr Just confirmed related to him. He referred repeatedly to the account being a trust account and beyond regulation, as well as referring to it as his account.

39.84.15 When it was put to Mr Just that he had provided his office account bank statements in order to show that he had not acted in the sale of Property B, Mr Just stated that his answer had been taken out of context "this related to my office account. It was correct that the money was not in my office account. I was not trying to help the SRA agent for his shortcomings. He needed to ask specific questions. If he did not ask specific questions then I will send him on a fishing expedition." The Tribunal found this to be an extraordinary response. It typified the contempt and disregard Mr Just had for the SRA when it was investigating complaints made.

39.84.16 When it was put to Mr Just that he knew the money would not show in the office account statements as the monies had been deposited into Account F, Mr Just responded "that's irrelevant. Mr Levy came to me with information and figures. He asked for the office account. The figures he presented to me were false. The allegation against me is false."

39.84.17 The Tribunal found that it was abundantly clear that Mr Just had provided the office account statements, which he knew would not contain any of the Property B transactions, in order to prove that he had not acted in the sale of Property B.

39.84.18 It was also plain that Mr Just had failed to disclose Account F. Indeed, it was his evidence that the existence of that account was "none of the SRA's business". He stated that he had not told the FIO that he was a trustee and had received the sale proceeds in that capacity, Mr Just replied "I did not have to say I act as a trustee, the will says that. It was self-explanatory. I told him I acted in accordance with the will."

39.84.19 The documentary evidence showed that Mr Just was the sole signatory on the account. It was not accepted that Mr Just was "fronting" Account F for Clement. Account F was being used to make regular payments of both personal and professional liabilities that related to Mr Just. The Tribunal found that those payments had been made by Mr Just.

39.84.20 Ms Culleton queried whether Mr Just saw the FIO as his enemy. Mr Just responded: "he came from the SRA. Normally when someone comes from the SRA it is due to a complaint. He had a complaint. When he asked questions, it was not my duty to convey information to him that I didn't have to. I did not trust him. He was from the SRA, and I had no reason to. I never trust anyone I do not know."

39.84.21 Ms Culleton suggested that Mr Just had failed to co-operate with the FIO. Mr Just explained: "he had a copy of the will. I did not guide him as to what to do. It was not for me to tell him how to interpret the will. Based on the will I did not need to answer any questions. I didn't have to say anything. I gave him information as he was on a fishing expedition, and I was trying to get information from him as much as he was trying to get information from me". Mr Just considered that the SRA was seeking to "entrap" him.

39.84.22 The Tribunal had no hesitation in finding that Mr Just had failed to co-operate with the SRA in breach of Principle 7. He had, on his own account, deliberately withheld information from the FIO and had sent him on a "fishing expedition". He had provided the Firm's office account statements to "prove" that the Firm had not acted in the sale of Property B when he knew that the proceeds of the sale were deposited in Account F and thus would not appear in the office account statements. He had stated that he had not acted for Client A when he was named on the conveyancing documents, had communicated with the purchaser's solicitor, and had a signed authority for the Firm to act in the probate/legal matter. Following the SRA's discovery the existence of Account F, Mr Just stated that he was fronting the account. That was plainly not the case; the personal and professional expenditure from that account evidenced that Mr Just was using the account on a regular basis.

39.84.23 Members of the public would expect a solicitor to co-operate with an investigation into their conduct. Members of the public would not expect solicitors to send the regulator "on a fishing expedition", providing answers which they knew were misleading or untrue. Accordingly, the Tribunal found that Mr Just's conduct was in breach of Principle 6.

39.84.24 That such conduct lacked integrity was evident. A solicitor acting with integrity did not deliberately provide false and misleading information during the course of an investigation, nor did they send the regulator on a "fishing expedition". Accordingly, the Tribunal also found that Mr Just's conduct was in breach of Principle 2.

Dishonesty

39.84.25 As detailed above, the Tribunal found:

- Mr Just indicated on more than one occasion that he had not acted in the sale of Property B, when he knew that he had.

- He had presented the office account statements of the Firm to "prove that we didn't actually do it" (act in the sale of Property B), when he knew that the sale proceeds would not appear in that account. In doing so, he had deliberately and knowingly sought to mislead the FIO

- He deliberately failed to disclose Account F in order to conceal that he had, in fact, (i) acted for Client A in the sale of Property B and (ii) received the proceeds of sale in relation to Property B

- When Account F was discovered and he was questioned about it, Mr Just stated that he was only fronting the account on behalf of Clement when he knew that he was operating the account to conduct his own personal and professional transactions on a regular basis, and that he was the sole signatory on Account F. That this was the true position was demonstrated on the documentary evidence and was stated by Mr Just during various stages of his cross-examination.

39.84.26 The Tribunal found that ordinary and decent people would consider that a solicitor who had knowingly and deliberately lied and misled his regulator during the course of an investigation into his conduct had acted dishonestly.

39.84.27 Accordingly, the Tribunal found allegation 1.3 proved on the balance of probabilities in its entirety, including the allegation 2 linked to 1.3 that Mr Just's conduct had been dishonest.

40. **Allegation 1.4 - Whilst in the course of acting in the sale of Property C, he failed to ensure that client money received on 17 August 2016 and 2 November 2016 from the sale of Property C was paid into or held in a client account. In so doing he: (1.4.1) breached any or all of rules 1.1 and 1.2 (a), (b), (c), (e), 13.1 and 14.1 of the Accounts Rules; (1.4.2) breached any or all of Principles 2, 4 6, 8 and 10 of the Principles.**

The Applicant's Case

40.1 Firm I acted for the purchasers of a Property C. The seller of the property was described as 'Mr Johnathan Just' with the Firm acting in the sale.

40.2 The property transaction completed on 2 November 2016 with the funds received by the Firm in the sum of £161,979.00 into the Office Account on the same day.

40.3 At paragraph 4.2 of the Completion Information and Undertakings document, an account number was entered into the box titled "client account number". The account number entered into the box was the Office Account number; the Firm did not have a client account.

40.4 The Office Account bank statements showed that a deposit transfer of £18,000 was received from Firm I on the 17 August 2016. On 2 November 2016, the balance of £161,979 was received.

40.5 Mr Just was interviewed about this matter on 11 May 2017. He stated that this was not a "typical conveyance" but was the transfer of a commercial lease. He claimed that the property had been held on trust for him and his brother, and that upon completion all proceeds of the sale had been sent to his brother 'Johnathan', who had moved to the USA.

40.6 The FIO established that on 2 November 2016 once the funds had been received from Firm I, the Firm's balance in the office account was £165,301.27. On 3 November 2016 a payment was made to Persimmon Homes in the sum of £295,323.30 which placed the Office Account in debit in the sum of £130,022.03.

40.7 The Office Account statement for the period 11 October 2016 to 9 January 2017 showed that the account was in the name of 'Mr Jonathan Alvyn Just and Mr Devon Anthony Brown Trading as Just and Brown Solicitors'.

40.8 The FIO prepared a further report on 6 September 2017. Persimmon Homes Ltd informed the FIO that they did not recognise the payment being made and they were unable to identify any transaction that related to the date, or the sum involved.

40.9 Ms Culleton submitted that it was clear that the proceeds of money from the sale were received into the Office Account and not a client account, as the Firm did not have a client account.

40.10 Further, it was perhaps noteworthy that despite Mr Just's assertion to the FIO and Mr Barr that he had sent the full proceeds of sale to his brother in the USA, the FIO was unable to find any transfer of money to a Mr Johnathan Just detailed on the Office Account statements.

40.11 Ms Culleton submitted that for all the reasons set out in respect of Allegation 1.1 above, in failing to have a client account and thereby failing to receive and keep the money from the sale appropriately in accordance with the Rules, Mr Just was in breach of Accounts Rules 1.1, 1.2 (a), (b) (c), (e) and (f) and 13.1 and 14.1 and the Principles identified.

40.12 A solicitor acting with integrity would have ensured that client money was placed into a client account. Such conduct was in breach of Principle 2

40.13 Mr Just acted in a way which diminished the trust which the public placed in the legal profession. The public would have expected him to have basic safeguards in place, as required by the Rules, to keep client money safe and placed in a designated client account, which he failed to do. Such conduct was in breach of Principle 6. The same facts and background further constituted breaches of Principles 8 and 10

The First Respondent's Case

40.14 Mr Just repeated the submissions made above as regards there being no requirement for the monies to be paid into a client account. The proceeds of the sale of Property C were trust monies. As the trustee, he was not subject to the Accounts Rules, and was outside of the remit of SRA regulation. In closing, Mr Just reiterated that the sale proceeds were trust assets of which both he and his brother were the beneficiaries. As such they were not required to be paid into a client account.

The Tribunal's Findings

40.15 The Tribunal noted that the Applicant had provided no evidence to show that the proceeds of the sale of Property C were not to be held in trust for Mr Just and his brother. The Applicant stated that the seller of Property C was "Mr Jonathan Just". The Tribunal accepted Mr Just's evidence that Mr Jonathan Just was his brother. It also accepted his evidence that the proceeds of the sale of Property C were to be held in trust for Mr Just and his brother. Accordingly, the Tribunal determined that the monies received from the sale belonged to Mr Just and his brother.

40.16 Rule 9 of the Accounts Rules provided:

> "9.1 If, when acting in a client's matter, you hold or receive money jointly with the client, another practice or another third party, the rules in general do not apply, but the following must be complied with:
>
> (a) rule 29.11 - statements from banks, building societies and other financial institutions;
>
> (b) rule 29.15 - bills and notifications of costs;
>
> (c) rule 29.17(b)(ii) - retention of statements and passbooks;
>
> (d) rule 29.21 - centrally kept records;
>
> (e) rule 31 - production of documents, information and explanations; and
>
> (f) rule 43A.1- reporting accountant to check compliance."

40.17 The Tribunal determined that in circumstances where the monies received belonged to Mr Just and his brother, pursuant to Rule 9, the Accounts Rules in general did not apply; when acting in this matter, Mr Just had received monies jointly with his client. The Applicant had not alleged that Mr Just had breached any of the Rules that Rule 9 required compliance with.

40.18 The Tribunal thus found that, given the exemption in Rule 9, in the particular circumstances surrounding the Property C transaction Mr Just was not required to comply with the specific Accounts Rules as alleged by the Applicant and had therefore not breached them. It followed that if there had been no breach of the Accounts Rules as alleged, no Principles as alleged had been breached. Accordingly, the Tribunal found allegation 1.4 not proved and thus dismissed that allegation.

41. **Allegation 3.1 – the Second Respondent failed to comply with his obligations between January 2013 and August 2017 as the Firm's Compliance Officer for Finance and Administration (COFA) in that he failed to ensure that the Firm and Mr Just complied with the SAR contrary to Rule 8.5 of the SRA Authorisation Rules 2011. In doing so he breached Principle 10 of the Principles.**

The Applicant's Case

41.1 Ms Culleton submitted that as the COFA, Mr Brown's role was to ensure that the Firm and its managers complied with any obligations imposed upon them by the Accounts Rules and to ensure that any serious breaches of the Accounts Rules were reported to the SRA. As a manager of the Firm, he was jointly responsible for ensuring regulatory compliance and should have exercised a degree of oversight over all the legal and regulatory responsibilities of the firm.

41.2 As detailed above, the Firm failed to operate a client account despite receiving and holding client money. Furthermore, client money from the sale of Property C was received into and held in the Office Account when it was client money and should have been in a client account.

41.3 At interview with the FIO on 11 May 2017, Mr Brown confirmed that they did not have a client account, had never had an account and that any client money received and/or dispensed should be reflected in the office account.

41.4 When asked about Account F, Mr Brown indicated that this was not the Firm's account. In an email of 12 June 2017, Mr Brown stated that Account F was not an account of the Firm and that he "wish to further state that to the best of my knowledge and belief, I have not done any transaction with that account".

41.5 In communications in respect of his 2017/2018 practising certificate application, on 31 January 2018, Mr Brown replied to the SRA's invitation to provide representations in respect of conditions being placed on his practising certificate. He stated that he accepted the recommendation that he was not a sole practitioner, manager or owner of an authorised body for a period of three months. He stated "I can assure that you that I will endeavour to be more responsible in the future and further stated "I accept that I should have been more responsible and I sincerely apologise. I intend to undertake regular COLP and COFA course and Management course from SRA, ILPRO and other course providers so that I will be well updated about my role and responsibilities as a COLP and COFA respectively."

41.6 Ms Culleton submitted that as a manager, and the COFA, Mr Brown had a duty to ensure client interests were protected and ought to have known the work that Mr Just was carrying out included conveyancing. Consequently, as such he ought to have

known that they needed a client account. If he was unaware of the work Mr Just was doing, he equally failed in his responsibility as a manager of the Firm.

41.7 Ms Culleton submitted that whether or not Mr Brown was aware of Account F and Mr Just's use of it and dealings with client money in that account, or in the Office Account, Mr Brown failed to have in place any or adequate systems or controls to identify client money, or ensure that client money was held safely in a client account, as was his responsibility as a partner, manager and COFA, and to report any breaches of the Accounts Rules. He had thus failed in his role as COFA.

41.8 As a result, Mr Brown breached Rule 8.5 of the SRA Authorisation Rules 2011 and Principle 10 of the Principles.

The Tribunal's Findings

41.9 The Tribunal noted that in his communications regarding conditions placed on his practising certificate, Mr Brown accepted the recommendation that he should not be a sole practitioner, manager or owner of an authorised body for a period of three months. He stated that he should have been more responsible and apologised. Further, he would undertake appropriate courses so that he could keep up-to-date with his regulatory responsibilities in any compliance roles. Mr Brown, it was determined, should have been aware of the work that Mr Just was undertaking, and should also have been aware that such work required the Firm to operate a client account. It was clear that Mr Brown failed to have in place any or any adequate systems or controls that would allow him to identify client money, or to ensure that client money was held safely in a client account. In failing to do so, Mr Brown had failed in his regulatory obligations as the COFA, and had failed to protect client monies and assets in breach of Principle 10. Accordingly, the Tribunal found allegation 3.1 proved on the balance of probabilities.

42. **Allegation 4.1 - On or around 24 November 2015 Mr Just failed to comply with an undertaking which he had given on 6 February 2015 to preserve a costs lien over a file in relation to costs of BGRB. In doing so he: (4.1.1) breached any or all of Principles 2 and 6 of the Principles; (4.1.2) failed to achieve Outcome 11.2 of the Code.**

The Applicant's Case

42.1 On 11 February 2014, BGRB complained to the SRA in respect of a case they had transferred to the Firm on instruction of their client LR. Prior to transferring the file to the Firm, BGRB obtained a written undertaking from the Firm with regard to their costs. Mr Just signed the undertaking on behalf of the Firm. Mr Just (on behalf of the Firm) undertook (amongst other things) to (i) preserve a lien over the File in relation to the costs of BGRB; (ii) Not to agree any settlement of costs of BGRB (other than costs to be assessed if not agreed) without prior agreement from BGRB; and (iii) At the conclusion of the claim, to provide details of the settlement reached and to return the file of papers to BGRB so that they may deal with the issue of costs themselves.

42.2 The Claim was settled by the Firm on 16 September 2013. Ms Culleton submitted that the settlement triggered the undertaking's requirements to tell BGRB about the settlement, and not to agree any costs without BGRB's agreement.

42.3 The Firm did not tell BGRB about the settlement. On 31 October 2013, the Firm agreed to accept costs in the sum of £8,250.00 in full and final settlement. This sum did not include any of BGRB's costs. BGRB did not know about, let alone consent to, the costs agreement.

42.4 The total costs claimed by the Firm was in the sum of £11,032.40 for work conducted between 25 January and 10 October 2013. The schedule did not refer to any work undertaken by BGRB.

42.5 On 12 December 2013, BGRB wrote to the Firm informing it that the Undertaking had been breached and invited the Firm to obtain confirmation from the Defendant to the Claim that the issue of the Claimant's costs had not been settled on a 'full and final basis'. On 28 January 2014, BGRB emailed Mr Just chasing a response to their letter of 12 December 2013 reminding the Firm that there had been a breach of the undertaking and that they would now be reporting the matter to the SRA.

42.6 On 3 February 2014, BGRB emailed the defendant's costs negotiator stating:

> "You have previously been in contact with [AC] from County Cost regarding the above matter. I have seen a copy of your email dated 25 November 2013 sent to [AC] which has confirmed that according to your file at no point did Just and Brown advise you of our prior involvement and that the settlement reached was in full and final settlement of all of the costs.
>
> I have been in touch with Alvin Just from the firm and as you can see from his reply below, he has a different take on the matter in that he is trying to suggest that the costs agreed were limited to the period he had contact namely 25.1.13 to 10.10.13. He produced a copy of a hand written note to support this which is attached."

42.7 In the email of 3 February 2014, Mr Just stated (amongst other things):

> "I acknowledge receipt of your email the contents duly noted, as stated before we have not breached the Undertaking. We still contend that we are not in Breached of the Undertaking [sic] as the Undertaking states that we will not agree to any settlement of BGR Bloomer without prior agreement from BGR Bloomer. As a result we only billed our cost as per our timesheet. Therefore for the foregoing reason we will suggest that you bill QM Solicitors for your costs accordingly. It is clear from all our correspondence that we did not settle your costs".

42.8 Ms Culleton noted that Mr Just's comments in the 3 February 2014 email were not supported by the letter dated 31 October 2013 which recorded that costs were agreed in full and final settlement and did not refer to BGRB's costs.

42.9 BGRB brought a separate civil action against the Firm for recovery of their costs and were awarded their costs in the sum of £22,909.98 by Order of the Chester County Court on 24 November 2015.

42.10 On 3 May 2016, BGRB wrote to the SRA to advise that the costs remained outstanding, and that they were considering bankruptcy proceedings against the partners of the Firm.

42.11 On 8 March 2017, the Firm applied to set aside the Judgment. The application to set aside was returned to the Firm as the fee was incorrect. The Court had no further contact from the Firm as regards the application.

42.12 Outcome 11.2 of the Code requires solicitors to perform all undertakings given within an agreed timescale or within a reasonable amount of time. The failure to perform the undertaking therefore represented a breach of this Outcome.

42.13 Ms Culleton submitted that public trust in the profession would be damaged by a solicitor who failed to comply with an Undertaking which was within their control. Undertakings were a fundamental part of the practise of a solicitor and was a binding promise. In failing to comply with the undertaking, Mr Just had breached Principle 6.

42.14 A solicitor acting with integrity would not have settled costs in full and final settlement knowing that another firm's costs would be unrecoverable from the paying party and knowingly breaching an undertaking to protect the other firm's costs. In doing so, Mr Just had acted without integrity in breach of Principle 2.

<u>The First Respondent's Case</u>

42.15 In his witness statement dated 8 July 2022, Mr Just stated:

> "With regards to the allegations about the undertaking for the lien for solicitor's fee this is false allegation and should be dismissed. What happened was I gave an undertaking that I would not bill the Solicitors fees without their consent and without a break down of their fees. I honoured the undertaking. In addition to that this matter was tried in the Croydon County Court and the matter was settled in 2018. Once again, the SRA is attempting to use sophistry to trick the Tribunal in its false allegations. The SRA is being very deceptive and dishonest, and it shows desperation on the part of the SRA. As the saying goes, it is a dying man who reach for a straw. The SRA action is a breach of the Double Jeopardy rule a person cannot be tried twice for the same offence/ allegations especially when the matter was settled in a Court of law. This an abuse of process. The SRA action is motivated by hate, racism, malice and victimisation and it is time the SRA desist from harassing me with bogus allegations because they are beginning to look petty and extremely pathetic all this hate and animosity towards me has to end, because there is a God in Heaven who sees and knows all, and he will judge the SRA whether they believe it are not. The SRA actions is an abuse of process, and their case must be dismissed."

42.16 In evidence Mr Just explained that he was not in breach of the undertaking. He had not agreed to any settlement of BGRB's costs. BGRB had not provided him with a breakdown of its costs. He had billed the Firm's costs and then returned the file. The defendants in the proceedings had refused to pay BGRB's costs. BGRB had then obtained a default Judgment against him. Mr Just considered that save for the Judgment in default, there would be no case against him.

42.17 The agreement to costs in full and final settlement related solely to the costs of the Firm.

42.18 Mr Just explained that the debt had been paid. He considered that this allegation should not be before the Tribunal; he had paid the debt and was now being prosecuted 6 years later. The ultimate goal was to satisfy the debt; that had been done. Mr Just did not accept that he had breached the Principles or failed to achieve Outcome 11.2 as alleged.

42.19 In closing Mr Just submitted that the undertakings were given by the Firm and not by him. He had been singled out for prosecution by the SRA; no allegation had been brought against Mr Brown in this regard. Mr Just considered that this was evidence of the SRA's victimisation and harassment of him; the SRA intended to show Mr Just that it was the "boss".

42.20 This allegation had been concocted by the SRA as a result of Mr Just filing his defence to the Rule 12 allegations. Further, as the matter had been determined over 6 years previously, the SRA, in bringing this allegation was in breach of the rule regarding double jeopardy.

The Tribunal's Findings

42.21 The Tribunal repeated its findings detailed above as regards the assertion that the pursuit of the allegation amounted to double jeopardy, which it rejected.

42.22 As regards the submission that Mr Brown did not face a similar allegation whilst also being a partner of the Firm, the Tribunal noted that it was not for the Tribunal to determine who should face particular allegations; that was a matter for the SRA. The Tribunal's role was to consider and determine the allegations brought.

42.23 The Tribunal found that Mr Just had provided an undertaking to preserve a lien on the costs of BRGB as alleged. The undertaking had been given by him (whether or not on behalf of the Firm). The Tribunal noted that Mr Just's submissions as regards the Firm were given during his closing submission and had not been raised by him in his documentary evidence or during the course of his evidence. The Tribunal rejected his submission that the allegation was wrongly brought against him as it should have been brought against the Firm.

42.24 The Tribunal noted that Mr Just did not consider that he had breached the undertaking as he had not agreed to any costs on behalf of BGRB. Mr Just had claimed costs in full and final settlement of the costs claim. In doing so, the costs paid were in full and final settlement of any claim for costs (including the costs of previous solicitors), not just the costs that he had claimed. The Tribunal found that Mr Just genuinely did not understand that in claiming costs in the way that he did, he had precluded BGRB from claiming its costs.

42.25 The Tribunal determined that notwithstanding the error, namely that Mr Just had unintentionally precluded BGRB from claiming its costs, such conduct failed to maintain the trust the public placed in him and in the provision of legal services. Members of the public would not expect a solicitor to make such an error which potentially left their client with a liability for costs in circumstances when those costs should have been claimed as part of any claim for costs in full and final settlement. In

making the error that he did, Mr Just had breached Principle 6. He had also failed to achieve Outcome 11.2 of the Code.

42.26 The Tribunal, as detailed, found that the breach of the undertaking resulted from Mr Just's misunderstanding when making his claim for costs on behalf of the Firm. The Tribunal did not find in making such an error, Mr Just had acted without integrity as alleged. He did not know, the Tribunal found, that BGRB's costs would be unrecoverable as a result of his claim, or that he had breached the undertaking to protect BGRB's costs.

42.27 Accordingly, the Tribunal found allegation 4 proved save that it did not find that Mr Just's conduct amounted to a breach of Principle 2.

43 **Allegation 5 - Whilst in the course of acting in the sale of Property C, he: (5.1) Failed within a reasonable time period to comply with an undertaking dated 27 October 2016 to discharge the mortgage against Property C on completion. In so doing he: (5.1.1) breached any or all of Principles 2 and 6 of the Principles; (5.1.2) failed to achieve Outcome 11.2 of the Code.**

The Applicant's Case

43.1 On 24 November 2016, the SRA received a complaint from Firm I in relation to an alleged breach of undertaking given by the Firm to discharge a charge on a conveyancing matter upon completion. Firm I acted for the purchasers of a Property C. The seller of the property was described as 'Mr Johnathan Just' with the Firm acting in the sale.

43.2 On or around 27 October 2016, Mr Just, on behalf of the Firm, undertook to discharge a mortgage on or before completion. The property transaction completed on 2 November 2016 with the funds received by the Firm in the sum of £161,979.00 into the Office Account on the same day.

43.3 The FIO established that on 2 November 2016 once the funds had been received from Firm I, the Firm's balance in the office account was £165,301.27. On 3 November 2016 a payment out of the account in the sum of £295,323.30 which placed the Office Account in debit in the sum of £130,022.03 and therefore meant that the Firm was not in a position to redeem the charge and comply with their undertaking to Firm I.

43.4 The mortgage was thus not discharged by Mr Just on completion in breach of the undertaking.

43.5 On 22 November 2016, Firm H wrote to the Firm and stated that the Firm had failed to redeem the mortgage secured over Property C.

43.6 When reporting the matter to the SRA on 24 November 2016, Mr Barr of Firm I stated that he had spoken with Mr Just and reminded him that the Law Society Completion Requirements necessitated the mortgage being repaid "immediately" on completion. Mr Barr reported that on 25 November 2016 he had received a call from Mr Just who had informed him that he had sent the full proceeds [of sale] to his client who was his brother in the USA and would be unable to repay the amount to redeem the mortgage,

which was £80,000. Mr Just informed Mr Barr that he had not recovered the funds from his brother but that he was obtaining a bridging loan to clear the Mortgage.

43.7 Ms Culleton submitted that the Office Account statement for the period 11 October 2016 to 9 January 2017 showed that:

- the account was in the name of Mr Jonathan Alvyn Just and Mr Devon Anthony Brown Trading as Just and Brown Solicitors;
- there was no payment from the Office Account to Romaco Finance Ltd to discharge the mortgage;
- up to 9 December 2016 the statement balance did not exceed £10,000 meaning that the funds were not available to discharge the mortgage.

43.8 Ms Culleton submitted that it was clear that Mr Just failed to comply with the Undertaking as he did not discharge the mortgage on completion. The mortgage was actually discharged 37 days after completion.

43.9 Ms Culleton submitted that a solicitor acting with integrity would have ensured that the mortgage was discharged on completion before releasing the full proceeds of sale to the client in accordance with the undertaking. Parties to a conveyancing transaction should be able to feel confident that their client's money will be distributed for its intended purpose. It was not known why Mr Just did not discharge the mortgage on the Property before utilising the proceeds of sale and being placed in a position where the undertaking could not be complied with on completion. Failing to do so, therefore, amounted to a breach of Principle 2 as well as Principle 6, as public trust in the profession would be undermined by a solicitor who was unable to comply with such an undertaking. Such conduct also amounted to a failure to achieve Outcome 11.2 of the Code.

<u>The First Respondent's Case</u>

43.10 In his witness statement dated 8 July 2022, Mr Just stated:

> "With regards to the allegations of not discharging the Mortgage on time. It is true there was a slight delay in the discharging of the mortgage, by a day or two but that is not a punishable offense. I can understand a warning for the delay by a day, but not prosecution as that matter was resolved six years ago. The SRA is only bringing it up now because they do not have a case and it is an abuse of process because this matter was raised at the High Court and the Court was satisfied that it was just a slight delay, and the issue was resolved."

43.11 In evidence Mr Just confirmed that he had provided the undertaking as detailed. He also accepted that the mortgage had not been discharged on completion. He explained that it was discharged 37 days late. That was a reasonable amount of time. It was unreasonable for the SRA to bring charges 6 years after the event.

43.12 Mr Just stated that he accepted that he was "wrong" and that he took full responsibility. He noted that the SRA had no issue with this until after he had submitted his evidence denying the allegations contained within the Rule 12 Statement. He believed that "too much time had passed" for the SRA to now be bringing this allegation. As to whether this amounted to a breach of the Principles as alleged was a matter for the Tribunal to decide.

43.13 In closing, Mr Just submitted that 37 days was a reasonable time within which to comply with the undertaking. It was not reasonable to the SRA to bring the prosecution more than 6 years later when the matter had, in any event, been resolved. The Statute of Limitations had passed. He asserted that this allegation (as with all allegations contained in the Rule 14 Statement) had been concocted by the SRA as a result of his defence to the allegations contained in the Rule 12 Statement and should be dismissed as an abuse of process.

The Tribunal's Findings

43.14 The Tribunal had already considered whether the pursuit of allegation 5 amounted to an abuse of process and had found that it did not.

43.15 Mr Just's submissions about limitation were rejected in relation to these regulatory proceedings.

43.16 The Tribunal found that Mr Just had provided an undertaking to discharge the mortgage on or before completion and had failed to do so as alleged and admitted. The Tribunal found that the reasonable time for compliance with the undertaking was on or before completion. The Tribunal noted that Mr Just had remedied the breach of the undertaking 37 days later. However, remedying a breach did not negate the breach.

43.17 The Tribunal found that members of the public would expect solicitors to comply with undertakings, particularly when those undertakings were given in conveyancing matters. Generally, conveyances of property were large financial transactions. In failing to discharge the mortgage in accordance with the undertaking, the purchasers were unable to receive the property free from any previous charges. In failing to comply with the undertaking, Mr Just had failed to behave in a way that maintained public trust in him and in the provision of legal services in breach of Principle 6.

43.18 Mr Just, as a beneficiary under the trust in which the property was held, and as the sellers' solicitor was aware that Property C was subject to a mortgage. Indeed, he had completed the Property Undertaking which declared the mortgage. He was aware, when he paid the monies away, that he had not redeemed the mortgage. The Tribunal found that a solicitor acting with integrity would not have paid monies away in the knowledge that a mortgage had not been discharged contrary to an undertaking given to discharge that mortgage. Accordingly, Mr Just had failed to act with integrity in breach of Principle 2. Further, he had failed to achieve Outcome 11.2 of the Code.

43.19 Accordingly, the Tribunal found allegation 5 proved on the balance of probabilities.

44. **Allegation 6 - Whilst handling the matter of Client L, he: (6.1) made a number of inappropriate statements between March 2017 and 27 May 2017 about Mr D, counsel acting for the opposing party, Ms E, and his conduct of his client's case; (6.2) sent email messages to Mr D and Ms E on 30 April 2017 which were inappropriate and/or offensive and/ or of a threatening nature. In so doing breached any or all of Principles 2 and 6 of the Principles.**

The Applicant's Case

44.1 Ms L, the widow of Mr K, instructed Mr Just to apply for letters of administration in relation to the estate of the deceased, on the basis that Mr K had died intestate.

44.2 Ms E, daughter of Mr K, was represented by Mr Noble, and reported to Mr Just that there was in fact a valid Will in place. Following this, Ms L produced a different Will, seeking to establish that that Will post-dated the Will Ms E had produced. The matter was heard before the Central London County Court on 2 December 2016 (the 'Court') to determine the validity of the two competing wills.

44.3 Following the Court's Judgment and Order dated 15 February 2017, Mr Noble reported a number of matters to the SRA on 21 April 2017. One of the concerns that he raised was that he received emails which contained inappropriate and unprofessional comments on Sunday 30 April 2017, including the following:

- You remind off a Grade 7 bully I had to slam to the Ground
- Is that all you got Mr Noble try harder, and while you are it add Nigger to the list, as I am also called Nigger
- I know you will so died and go to dust Mr Noble so keep doing what you are doing you are just fading away one step closer to your grave
- You remind me of a little ????
- I will not lose any sleep for your nonsense, as I know the Plagues will fall on you just like Pharaoh

44.4 Further, Mr Noble noted that in Mr Just's statements dated 7 March 2017, 27 March 2017 and 17 April 2017 he made a number of inappropriate comments including:

- I am inviting Mr Noble and the Claimant to prove that I had something to do with. If not just keep their mouth shut.
- All they have done so far is make false allegations, any old chump can make false allegations, but to support it with evidence is another thing.
- I am of the opinion that Mr Noble has a problem with black men. I could be wrong, but I honestly believe that, because I am black he thinks that I am dishonest. I have come across individual like Mr Noble who believe that, because of the colour of my skin I am automatically dishonest.

- I have had a few dialogue with Mr Noble and he gives me the impression that he wants me to refer to him as master as in slavery days. It is sad that you have some individuals like Mr Noble who thinks that the colour of his skin gives him some special privilege or right be prejudice and arrogant and to accuse me of a crime I did not commit without any evidence except the colour of my skin.

44.5 Mr Noble stated that Ms E received the following email messages on 30 April 2017 from Mr Just:

- I really do not give a damn what you do or say, as I got somebody with me that will bring both you and Mr Noble to your knees.

- Take my word Ms E leave me alone, as you will soon regret the day that you met. All I can say to you be careful when you think that you are standing you are actually falling. Your judgement is coming soon beware, and it will not be an easy one, the Most High knows that. Just remember that whosoever diggeth a pit shall fall in it. You and Mr Noble will fall in your own pit sooner than you think.

44.6 Mr D further stated that the emails were just part of a series of inappropriate emails and communications. In other statements of Mr Just including those dated 27 March 2017, 3 May 2017 and 26 May 2017 he made various assertions that Mr Noble was racist and that the claims against him were 'bogus, baseless' and motivated by resentment, malice and racism, amongst others.

44.7 Ms Culleton submitted that the language used by Mr Just was inappropriate, offensive and threatening in its use of words and tone. Irrespective of whether Mr Just genuinely believed that the communications from Mr Noble or Ms E had been in any way unreasonable, it was submitted that his language was completely inappropriate within a professional context and was unjustifiable.

44.8 The SRA Warning Notice entitled 'Offensive Communications' first published 24 August 2017 and updated 25 November 2019, stated:

> "We expect you to behave in a way that demonstrates integrity and maintains the trust the public places in you and in the provision of legal services. In the context of letters, emails, texts or social media, this means ensuring that the communications you send to others or post online do not contain statements which are derogatory, harassing, hurtful, puerile, plainly inappropriate or perceived to be threatening, causing the recipient alarm and distress."

44.9 The Warning Notice also stated:

> "Communications with other opposing lawyers and litigants in person
>
> It is not uncommon for emails with the other side in relation to a client's matter to be robust, particularly in litigation. However, you should ensure such communications do not cross the line by using inflammatory language or being gratuitously offensive, either to the other side or about their client.

> Your role is to act in the client's best interests; antagonising the other side is unlikely to achieve this. We expect you to remain objective and not allow the matter to become personal, regardless of the provocation or your client's instructions. You are not your client's 'hired gun' and you may be at risk under Principle 3 if you allow your independence to be compromised by being drawn into using offensive language or making offensive comments in order to meet your client's expectations."

44.10 Whilst this Warning Notice was first published just a few months after the alleged conduct by Mr Just, its purpose was – and is – to help solicitors understand their obligations, even as they existed before the Warning Notice. Keeping communications professional and appropriate was, and had always been, a basic expectation and obligation.

44.11 Ms Culleton submitted that the content and tone of the statements and comments made in communication with Mr Noble and Ms E was aggressive and threatening; containing threats of injury and death and otherwise inappropriate comments as a professional person engaging in communications with another professional and a lay client. The comments alleging racism by Mr Noble were also plainly inappropriate. In conducting himself as he did, Mr Just failed to act with integrity in breach of Principle 2.

44.12 The conduct alleged also amounted to a breach of the requirement to behave in a way which maintained the trust placed by the public in them and in the provision of legal services. Public confidence in Mr Just, in solicitors and in the provision of legal services was likely to be undermined by solicitors who make such unprofessional inappropriate comments and threats.

44.13 Mr Just therefore breached Principles 2 and 6.

<u>The First Respondent's Case</u>

44.14 Mr Just submitted that the SRA was prosecuting him for the same allegations he had been exonerated for twice before. This allegation was an attempt to give Mr Noble another chance at a case that he had already lost.

44.15 In December 2017 Mr Just had appeared before the High Court for a hearing that was scheduled for 5 days but only lasted a few hours once the Judge discovered that "the SRA closed my practice based on the false allegations" of Mr Noble.

44.16 Mr Just submitted that Mr Noble had a "serious vendetta" against him. He had applied for six ex parte injunctions. He had obtained an injunction to stop Mr Just from advertising his property for sale. The SRA had supported Mr Noble in that application.

44.17 Mr Just did not accept that the comments made were inappropriate, offensive or threatening. In particular, it could not be said that quoting passages from the Bible was in breach of his regulatory duties.

44.18 In closing, Mr Just submitted that the background to the communications with Mr Noble and Ms D, was the accusation made by Mr Noble that Mr Just was not willing to attend court in circumstances where Mr Just had made it plain that he was happy to attend court but was abroad.

44.19 Mr Noble proceeded to make numerous allegations against Mr Just and a number of orders requesting that his assets be frozen, when Mr Just did not owe any money. He responded to the accusations and was now being prosecuted as a result. Mr Just noted that it was Mr Noble's evidence that he was not threatened by the communications, and he did not consider that Mr Just was going to hurt him.

44.20 Mr Just submitted that his communications were not inappropriate, offensive or threatening. They were statements of fact. Many of the complained of passages were quotes from the Bible. The prosecution in relation to those passages was a breach of his fundamental human rights. The communications had already been considered and had been found by the Judge to be statements of fact.

44.21 Mr Just did not think it was appropriate for him to be prosecuted for matters stated in his witness statements. When asked by the Tribunal whether there were any boundaries to the way matters could be expressed in a witness statement Mr Just explained that when one was defending oneself against accusations made, there were no boundaries.

The Tribunal's Findings

44.22 The Tribunal considered all of the complained of communications. It noted that Mr Just had responded in the context of extremely hostile litigation. Mr Noble, on his client's behalf had been aggressive in his pursuit of Mr Just seeking a number of court orders against him, including the freezing of his assets. The Tribunal had had the benefit of seeing Mr Noble give evidence. It was clear that he considered that Mr Just had acted improperly as regards the underlying litigation matter and that belief had, in part, driven the complaint made.

44.23 It was clear, the Tribunal found, that Mr Just, in seeking to defend himself against what he considered to be malicious allegations, had expressed his frustration and annoyance in a manner that was inappropriate.

44.24 The Tribunal considered the emails to Mr Noble and Ms D dated 30 April 2017 with great care. Whilst it accepted that parts of those emails were inappropriate, it was not accepted that they were either offensive or threatening. The Tribunal found that even in the context of hostile litigation, members of the public would expect solicitors to be robust, but temperate in the language they used when communicating with the other side. That expectation was even higher when those communications were with the lay client. Accordingly, the Tribunal found that in communicating in the way that he did, Mr Just had failed to maintain the trust the public placed in him in breach of Principle 6.

44.25 The Tribunal did not find that Mr Just had failed to act with integrity. It had found the communications to be inappropriate; the Tribunal had not accepted the submission that there were no boundaries to what could be said in defence of allegations. The Tribunal recognised the extremely trying circumstances of the litigation in which the

communications arose, and the aggressive pursuit of Mr Just for allegations that were ultimately not found to be substantiated.

44.26 Solicitors were not expected to be paragons of virtue, and Mr Just's conduct had been found to be inappropriate and in breach of Principle 6. The Tribunal, having found that the communications had not been offensive or threatening also found that the inappropriate nature of the communications was not such that Mr Just could be said to have acted without integrity.

44.27 Accordingly, the Tribunal found allegation 6 proved on the balance of probabilities, save that it did not find that there had been a breach of Principle 2.

Previous Disciplinary Matters

45. None.

Mitigation

46. Mr Just submitted that he should receive the same sanction as Mr Brown when he received conditions on his practising certificate. It would be unfair for Mr Brown to receive a different sanction when the conduct alleged was the same.

47. Further, the SRA had previously accused Mr Just of dishonesty and suspended his practising certificate for a period of 3 years. It was only as a result of Mr Just writing to the SRA and asking them to lift the suspension and remove the allegation of dishonesty that this occurred. As a result, Mr Just had suffered a suspension for 3 years that was unwarranted and unjustified. It was in the interests of justice for this suspension to be taken into account when considering sanction. In circumstances where Mr Just had been deprived of earning a living as he was unable to work as a solicitor during the period of the suspension.

48. The misconduct that was alleged regarding Allegations 4 and 5 had been remedied many years previously. Mr Just had taken full responsibility for the breach of the undertaking under allegation 5.

49. Mr Just submitted that exceptional reasons in this case applied because of his lack of trust of Mr Levy. He was working with Mr Noble (who knew about other matters that he was being investigated for). As far as Mr Just was concerned, there was a conspiracy against him as was evidenced in the statement of Mr Taylor. He was unable to trust the FIO who was from an organisation that was conspiring against him. Mr Just submitted that he had no duty to disclose Account F to the FIO.

50. Mr Just submitted that the Tribunal should not impose any sanction that could have any repercussions on him.

Sanction

51. The Tribunal had regard to the Guidance Note on Sanctions (10th Edition – June 2022). The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction,

it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances.

The First Respondent

52. The Guidance Note on Sanction stated:

> "Some of the most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see Solicitors Regulation Authority v Sharma [2010] EWHC 2022 (Admin)).
>
> **Exceptional Circumstances**
>
> In considering what amounts to exceptional circumstances: relevant factors will include the nature, scope and extent of the dishonesty itself; whether it was momentary, or over a lengthy period of time; whether it was a benefit to the solicitor, and whether it had an adverse effect on others." (Sharma above). The exceptional circumstances must relate in some way to the dishonesty (James above).
>
> The principal focus in determining whether exceptional circumstances exist is on the nature and extent of the dishonesty and the degree of culpability (Sharma and R (Solicitors Regulation Authority) v Imran [2015] EWHC 2572 (Admin)).
>
> As a matter of principle nothing is excluded as being relevant to the evaluation, which could therefore include personal mitigation. In each case the Tribunal must when evaluating whether there are exceptional circumstances justifying a lesser sanction, focus on the critical questions of the nature and extent of the dishonesty and degree of culpability and engage in a balancing exercise as part of that evaluation between those critical questions on the one hand and matters such as personal mitigation, health issues and working conditions on the other. (James above).
>
> Where dishonesty has been found mental health issues, specifically stress and depression suffered by the solicitor as a consequence of work conditions or other matters are unlikely without more to amount to exceptional circumstances:
>
> > "The SDT having concluded that, notwithstanding mental health issues, each of the respondents was dishonest, I consider that it was contrary to principle for it then to conclude that those mental health issues could amount to exceptional circumstances".
> >
> > "….in my judgment, pressure of work or extreme working conditions whilst obviously relevant, by way of mitigation, to the assessment which the SDT has to make in determining the appropriate sanction, cannot either alone or in conjunction with stress or depression, amount to exceptional circumstances. Pressure 19 of work or of working

> conditions cannot ever justify dishonesty by a solicitor…." per Flaux LJ in James (above)."

53. Given its findings, the Tribunal paid particular regard to the paragraphs detailed above when determining the appropriate sanction for Mr Just.

54. The Tribunal found that Mr Just was motivated by his desire to cover up the existence of Account F, so that it would not be disclosed to the FIO, and he could maintain his position that he had not acted for Client A in circumstances where he knew that he had. He knew that Client A was his client in both the conveyancing and probate transaction. He had consciously attempted to put the funds outside of the normal regulatory remit of the SRA. On each of the allegations found proved, Mr Just's version of events was changeable. The Tribunal considered that he was also motivated by self-preservation and his actions were, in some circumstances, an attempt by him to conceal his misconduct. His actions were clearly planned. Account F had been opened by him as the sole signatory and were used by him in order to manage the monies received. He deliberately gave the minimum amount of information that he could in order to block, divert or obfuscate the SRA in its investigation. He had acted in breach of the trust placed in him by the public to operate proper stewardship of client monies. He had sole control and was directly responsible for his misconduct. He was an experienced solicitor. He had deliberately and consciously misled the regulator. As he stated in his evidence he was sending the SRA on a "fishing expedition".

55. He had caused harm to Client A in failing properly to account to her for the proceeds of the estate. In failing to account to Client A, Client A was left in the position where she did not know what was due to her as a beneficiary of the Will. The extent of the harm he had caused to Client A was obvious and was caused, in its entirety, by Mr Just's conduct.

56. He had also caused harm to Mr Brown, who had no idea of the existence of Account F, and had been prosecuted for failing to comply with his regulatory obligations.

57. Mr Just's conduct was aggravated by his proven and blatant dishonesty, which was in material breach of his obligation to protect the public and maintain public confidence in the reputation of the profession; as per Coulson J in Solicitors Regulation Authority v Sharma [2010] EWHC 2022 Admin:

> "34. There is harm to the public every time that a solicitor behaves dishonestly. It is in the public interest to ensure that, as it was put in Bolton, a solicitor can be "trusted to the ends of the earth"."

58. His misconduct was deliberate, calculated and repeated and continued over a period of time. He had misled the SRA throughout the investigation in order to meet the narrative he was using to support his conduct. Mr Just knew that he was in material breach of his obligation to protect the public and the reputation of the profession.

59. Client A and the minor beneficiaries were vulnerable. He had taken advantage of that vulnerability to "use the proceeds in any way he saw fit". Client A trusted Mr Just to deal properly with the administration of the estate whilst suffering grief from the bereavement of her partner. He had abused his power as the solicitor who was acting

on the probate and sale. He had concealed his wrongdoing by failing to disclose the existence of Account F, and then, when it was discovered, stated that he only fronted Account F in circumstances where it was clear that this was untrue and that he was in fact using Account F on a regular basis for his own personal and professional expenditure.

60. In mitigation Mr Just had remedied his misconduct in relation to allegations 4 and 5. He had settled the charge in relation to Property C 37 days late. He had also satisfied the Judgment debt obtained where he had mistakenly claimed costs in full and final settlement. Mr Just accepted that he had breached the undertaking at allegation 5 and took responsibility for the whole of the delay in circumstances where he said the entire delay was not down to him.

61. Given the serious nature of the allegations, the Tribunal considered and rejected the lesser sanctions available to it within its sanctioning powers such as no order, a reprimand or restrictions. The Tribunal had regard to the case of Bolton v Law Society [1994] 2 All ER 486 in which Sir Thomas Bingham stated:

> "… Lapses from the required standard (of complete integrity, probity and trustworthiness)….may….be of varying degrees. The most serious involves proven dishonesty….In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced by the solicitor, ordered that he be struck off the roll of solicitors."

62. Mr Just had submitted that he should receive the same sanction as Mr Brown, namely the conditions placed on Mr Brown's practising certificate in 2017. That was not a sanction that had been imposed by the Tribunal but was a regulatory measure imposed by the SRA. The Tribunal rejected that submission as inadequate. In any event, the Tribunal was required to sanction both Mr Just and Mr Brown for the allegations it had found proved during the course of the proceedings. The allegations found proved against Mr Just were entirely different to those found proved against Mr Brown. Mr Just faced a whole range of allegations of a completely different character and gravity to that faced by Mr Brown. The Tribunal had found that Mr Just had acted dishonestly and without integrity. Mr Brown had faced no such allegations.

63. Given its findings the Tribunal found that neither a fine nor a suspension adequately reflected the seriousness of Mr Just's misconduct. The Tribunal found that given the serious nature of its findings, the appropriate and proportionate sanction was to strike Mr Just off the Roll.

64. The Tribunal then considered whether there were any exceptional circumstances that could justify the imposition of a lesser sanction. Mr Just had submitted that he had not provided full information to the SRA, as he had no trust in the SRA as it was clear to him that Mr Levy had conspired with Mr Noble. In addition, he was not required to disclose the existence of Account F as it was an account over which he had control as a trustee. He was still operating as a trustee pursuant to the Will. Further, as he had been suspended from practice (resulting in his bankruptcy) this should be taken into account when considering sanction.

65. The Tribunal did not find that any of these matters amounted to exceptional circumstances. The Tribunal decided that in view of the serious nature of the misconduct, in that it involved dishonesty, the only appropriate and proportionate sanction was to strike Mr Just off the Roll of Solicitors.

The Second Respondent

66. Mr Brown's misconduct arose as a result of his failure to exercise proper oversight in his compliance role. He was directly responsible for his failings in that regard. He was an experienced solicitor. He seemingly had no knowledge of the existence of Account F. He had failed to undertake his role with due diligence and had failed to protect client monies and assets. As the COFA, he should have ensured that the Firm operated a client account. Those failings might impact on public confidence. The misconduct was aggravated by its continuance over a period of time. Mr Brown ought to have known that abdication of his responsibility as a compliance officer was in material breach of his obligation to protect the public and the reputation of the profession. Mr Brown should have been aware that client monies were being received in the office account.

67. In mitigation he believed Mr Just when he was told that no client account was needed. He was unaware of the existence of Account F; he was not a signatory to Account F. It was a single and continuing failing. He had expressed genuine insight during the intervention into the Firm. He accepted responsibility for his shortcomings and stated that he would undertake relevant courses so as to be fully cognisant of his responsibilities. He had been open and frank during the course of the investigation.

68. The Tribunal considered that a sanction of No Order did not reflect the seriousness of the misconduct. The Tribunal found that the seriousness of the misconduct was such that a Reprimand did not adequately reflect the seriousness of his misconduct. His failings had occurred over an extended period of time, and he had failed completely in his responsibility as a compliance officer. The Tribunal considered that a financial penalty was appropriate. The Tribunal considered that, but for Mr Just, Mr Brown would not have been brought to the Tribunal. The Tribunal considered that a fine at Level 1 adequately reflected the seriousness of the misconduct. Accordingly, the Tribunal ordered that Mr Brown pay a fine in the sum of £2,000

Costs

69. Ms Culleton applied for costs in the sum of £42,296.20. The SRA's internal costs were in the sum of £20,090.20. Legal costs were in the sum of £18,500 + VAT. The total hours to date amounted to 387 hours. This amounted to a notional hourly rate of £47 per hour. Ms Culleton submitted that in the circumstances, the costs claimed were entirely reasonable. The allegations bought were justified and serious.

70. As regards apportionment of the costs, it was obvious that the majority of the allegations were against Mr Just. The allegation faced by Mr Brown was less serious and less extensive. In the circumstances, Ms Culleton submitted that a 75% - 25% split was appropriate. The majority of the work and the case had been against Mr Just.

71. Mr Just submitted that he had only attended one Case Management Hearing. As a result of his suspension in August 2017, he had been unable to work in the UK. As a result, he was made bankrupt. The SRA, it was submitted, should contact Mr Just's trustee in bankruptcy for any costs awarded. Mr Just explained that he was declared bankrupt in 2018/19. Mr Just submitted that he had no means.

72. Ms Culleton submitted that the Tribunal had found the majority of allegations proved. As a result, the SRA should not bear any of Mr Just's costs. Accordingly, there should be no costs awarded to Mr Just.

73. The Tribunal accepted that the SRA had been successful in its prosecution. In those circumstances, costs should be ordered in its favour. Mr Just, it was determined, was not entitled to any of his own costs.

74. The Tribunal determined that the costs claimed were reasonable. The notional hourly rate charged as a result of the fixed fee, was eminently reasonable. The costs claimed for the investigation undertaken by the SRA were entirely appropriate given the nature, and complexity of the issues to be determined. The costs were increased as a result of Mr Just's failure to provide information, which caused the SRA to have to undertake further investigations and incur further costs.

75. The Tribunal considered that Mr Brown, having played a miniscule part in the proceedings, should not be liable for more than 1% of the costs. This reflected Mr Brown's failure to engage with the proceedings, causing the SRA to have to prove the allegation against him. He had not provided an Answer. The Tribunal considered that the reasonable and proportionate costs payable by Mr Brown were £400.00.

76. The Tribunal found that Mr Just was responsible for 99% of the costs incurred. The Tribunal noted that Mr Just stated that he had been made bankrupt and that his bankruptcy had not been discharged. Mr Just had failed to provide any evidence of his bankruptcy, or any evidence of his means. Accordingly, the Tribunal found that there was no reason to reduce the costs claimed or to make any order other than a full order for costs. The Tribunal thus ordered that Mr Just pay costs which it fixed in the sum of £41,896.20

Statement of Full Order

77. The Tribunal Ordered that the Respondent, ALVIN GILBERT JUST, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £41,896.20.

78. The Tribunal Ordered that the Respondent, DEVON ANTHONY BROWN, solicitor, do pay a fine of £2,000.00, such penalty to be forfeit to His Majesty the King, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £400.00.

Dated this 21st day of December 2022
On behalf of the Tribunal

E Nally
Chair