

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12359-2022

## BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

DANIELLE LOUISE SHAWCROSS

Respondent

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Before:

Mr A Ghosh (in the chair)

Mr M N Millin

Mr P Hurley

Date of Hearing: 24 October 2022

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## Appearances

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

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## JUDGMENT ON AN AGREED OUTCOME

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## **Allegations**

(The words in brackets in the allegations below appeared in the Rule 12 Statement but not in the Statement of Agreed Facts and Agreed Outcome. The Respondent admitted the allegations as set out in the latter.)

1. The allegations against Danielle Louise Shawcross (“the Respondent”) were that, while in practice as a solicitor, owner, sole principal and COFA (Compliance Officer for Finance and Administration) of DLS Legal Services Limited:

### **Allegation 1**

- 1.1. By permitting a shortfall of £41,055.95 in the client account to exist as at 30 September 2018, the Respondent:
  - 1.1.1. breached Rule 1.2 (a) and/or (b) of the SRA Accounts Rules 2011;
  - 1.1.2. breached (both or either of) Principles 6 and 10 of the SRA Principles 2011.
- 1.2. By failing promptly to rectify the shortfall as at 30 September 2018, the Respondent:
  - 1.2.1. breached Rule 7.1 of the SRA Accounts Rules 2011;
  - 1.2.2. breached (both or either of) Principles 6 and 10 of the SRA Principles 2011.

### **Allegation 2**

- 2.1. Between October 2016 and 30 September 2018, the Respondent:
  - 2.1.1. failed to keep proper accounting records;
  - 2.1.2. made incorrect client to office account transfers totalling £33,848.34;
  - 2.1.3. held client money totalling £3,044 incorrectly in the office account; and
  - 2.1.4. made incorrect payments from the client account totalling £4, 163.61.
- 2.2. In doing so the Respondent:
  - 2.2.1. breached (all or any of) rules 1.2, 14.1, 20.1 and 20.6 of the SRA Accounts Rules 2011;
  - 2.2.2. breached (both or either of) Principles 6 and 10 of the SRA Principles 2011;

and

  - 2.2.3. failed to achieve (both or either of) outcomes 7.2 and 7.4 of the SRA Code of Conduct 2011.

### **Allegation 3**

- 3.1. From October 2016 to 30 September 2018 the Respondent failed to prepare adequate client account reconciliations. In doing so the Respondent:
  - 3.1.1. Breached rules 1.2, 29.12 and 29.14 of the SRA Accounts Rules 2011; and
  - 3.1.2. (either or both of) Principles 6 and 10 of the SRA Principles 2011.

### **Documents**

4. The Tribunal considered the documents submitted in support of the application for an Agreed Outcome which were contained within an electronic hearing bundle agreed by the parties.

### **Factual Background**

5. The Respondent Ms Shawcross was born in 1983 and admitted to the Roll of Solicitors on 2 September 2013. She holds a current Practising Certificate free from conditions.
6. Ms Shawcross is the sole Director and Owner of DLS Legal Services Limited (“the Firm”), an SRA recognised body since 29 September 2016. At all material times she has been the Firm’s Compliance Officer for Legal Practice (“COLP.”) Compliance Officer for Finance and Administration (“COFA”) and Money Laundering Reporting Officer (“MLRO”).
7. The SRA commenced an investigation at the Firm following a Qualified Accountant’s Report for the period 1 October 2016 to 31 May 2017 dated 3 July 2018. That report found material breaches of the Solicitors Accounts Rules 2011, and/or significant weaknesses in the Firm’s systems and controls for compliance with the Accounts Rules in certain respects.

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

8. The parties invited the Tribunal to deal with the Allegations against Ms Shawcross in accordance with the Statement of Agreed Facts and Agreed Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal’s Guidance Note on Sanctions.

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

9. The Applicant was required to prove the allegations to the standard applicable in civil proceedings (the balance of probabilities). The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondent’s rights to a fair trial and to respect for their private and family life under Articles 6 and 8 respectively of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. The Tribunal reviewed all the material before it and was satisfied to the required standard that Ms Shawcross's admissions were properly made.
11. The Tribunal considered its Guidance Note on Sanctions (June 2022). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. In assessing the seriousness of what Ms Shawcross had done the Tribunal noted that as a sole practitioner Ms Shawcross was responsible for the state of the Firm's accounts. There was clearly harm to the reputation of the legal profession but no harm or even inconvenience to clients. There were no aggravating factors. There were no allegations of dishonesty or lack of integrity and there had been no previous disciplinary matters before the Tribunal. Ms Shawcross asserted that she had made admissions and co-operated with the SRA and taken steps to rectify the issues identified including instructing external accountants to rewrite the books and had undergone training to fill the gaps in her own knowledge. The Tribunal felt that she had shown insight into how the problems had arisen. The Tribunal considered that no order or a reprimand would not be sufficient to mark the seriousness of the misconduct. A fine would be appropriate and the Tribunal agreed that what had occurred was moderately serious and that a fine in the middle of the Indicative Fine Band of Level 2 in the amount of £5,000 was appropriate as proposed.

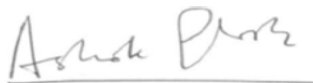
### **Costs**

12. The Tribunal noted that the parties had agreed that Ms Shawcross should contribute to the SRA's costs in the amount of £10,000.

### **Statement of Full Order**

13. The Tribunal Ordered that the Respondent, DANIELLE LOUISE SHAWCROSS, solicitor, do pay a fine of £5,000.00, such penalty to be forfeit to His Majesty the King, and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the agreed sum of £10,000.00.

Dated this 21<sup>st</sup> day of November 2022  
On behalf of the Tribunal



A Ghosh  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**21 NOV 2022**

**Between:**

**SOLICITORS REGULATION AUTHORITY LIMITED**

**Applicant**

**and**

**DANIELLE LOUISE SHAWCROSS**

**(SRA ID: 419595)**

**Respondent**

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**STATEMENT OF AGREED FACTS AND AGREED OUTCOME**

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1. By an Application and Statement made by Ian Brook on behalf of the Applicant pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019 dated 1 August 2022, the Applicant brought proceedings before the Tribunal making allegations against the Respondent.
2. The Respondent admits all of the allegations and the facts set out in this statement and the parties have agreed a proposed outcome.
3. The allegations against Danielle Louise Shawcross (“the Respondent”) are that, while in practice as a solicitor, owner, sole principal and COFA of DLS Legal Services Limited:
  4. **Allegation 1**
    - 4.1. By permitting a shortfall of £41,055.95 in the client account to exist as at 30 September 2018, the Respondent:
      - 4.1.1. breached Rule 1.2 (a) and/or (b) of the SRA Accounts Rules 2011;
      - 4.1.2. breached Principles 6 and 10 of the SRA Principles 2011.

4.2. By failing promptly to rectify the shortfall as at 30 September 2018, the Respondent:

- 4.2.1. breached Rule 7.1 of the SRA Accounts Rules 2011;
- 4.2.2. breached Principles 6 and 10 of the SRA Principles 2011.

## 5. Allegation 2

5.1. Between October 2016 and 30 September 2018, the Respondent:

- 5.1.1. failed to keep proper accounting records;
- 5.1.2. made incorrect client to office account transfers totalling £33,848.34;
- 5.1.3. held client money totalling £3,044 incorrectly in the office account; and
- 5.1.4. made incorrect payments from the client account totalling £4,163.61.

5.2. In doing so the Respondent:

- 5.2.1. breached rules 1.2, 14.1, 20.1 and 20.6 of the SRA Accounts Rules 2011;
- 5.2.2. breached Principles 6 and 10 of the SRA Principles 2011; and
- 5.2.3. failed to achieve outcomes 7.2 and 7.4 of the SRA Code of Conduct 2011.

## 6. Allegation 3

6.1. From October 2016 to 30 September 2018 the Respondent failed to prepare adequate client account reconciliations. In doing so the Respondent:

- 6.1.1. Breached rules 1.2, 29.12 and 29.14 of the SRA Accounts Rules 2011;  
and
- 6.1.2. Principles 6 and 10 of the SRA Principles 2011.

7. The Respondent admits these allegations.

8. The following facts and matters, which are relied upon by the SRA in support of the Allegations set out in paragraphs 4, 5 and 6 above, are agreed by the SRA and the Respondent.

9. The Respondent (SRA ID: 419595) was born January 1983 and admitted to the Roll of Solicitors on 2 September 2013. She holds a current Practising Certificate free from conditions.
10. The Respondent is the sole Director and Owner of DLS Legal Services Limited (“the Firm”), an SRA recognised body since 29 September 2016 (SRA ID 633162). At all material times she has been the Firm’s COLP, COFA and MLRO.
11. The SRA commenced an investigation at the Firm following a Qualified Accountant’s Report for the period 1 October 2016 to 31 May 2017 prepared by Matthew Counsell, a Chartered Accountant, and dated 3 July 2018. That report found material breaches of the Solicitors Accounts Rules 2011 (“Accounts Rules”), and/or significant weaknesses in the Firm’s systems and controls for compliance with the Accounts Rules in the following respects:
  - 11.1. Client ledger balances did not agree to client bank balances;
  - 11.2. There was a significant number of unrepresented receipts and payments due to the Respondent not fully understanding the system and reconciling ledgers;
  - 11.3. Bank interest was paid into client account in error;
  - 11.4. Money was banked into the office account which contained client money then transferred to client account;
  - 11.5. There was a small number of overdrawn client ledgers;
  - 11.6. A number of ledgers were in the name of the solicitor. These were to deal with probate matters on behalf of clients;
12. The SRA’s investigation was carried out by a Forensic Investigation Officer (“FIO”). The results of that investigation are set out in a Report dated 4 June 2020.
13. In the course of the investigation, the Respondent was interviewed on 24 June 2019. A transcript of that interview has been produced. In that interview, the Respondent confirmed:
  - 13.1. She accepted the breaches set out in the Qualified Accountant’s Report. She was not aware before she received the report that the Firm’s client ledger balances did not agree with the client account bank balances on 31 January 2017 and 31 May 2017;

- 13.2. She agreed that there was a significant number of unrepresented receipts and payments due to her not fully understanding the system and reconciling ledgers;
- 13.3. She accepted that bank interest was paid into client account in error and that money had been banked into the office account which contained client money and then transferred to the client account. She explained that the Firm had two electronic payment systems. Payments from one system were erroneously being paid into the office account before being moved over to client account. This was rectified in September 2018;
- 13.4. She accepted that there was a small number of overdrawn client ledgers and that this was a breach. In addition there were ledgers in her name and the Respondent explained that this was where she was the executor;
- 13.5. Before October 2018, client account reconciliations were carried out by her bookkeeper. The Respondent would check them against the bank account. She kept electronic copies of the reconciliations but not the client matters reports. She raised queries on the reconciliations with the bookkeeper who always had an explanation. She was aware of debit balances and raised these with the bookkeeper who reassured her that everything was fine;
- 13.6. The bookkeeper worked with the Firm since it was set up. She came into the office once a week for a few hours. The bookkeeper had never worked with solicitors before;
- 13.7. The Respondent was aware of the Accounts Rules in relation to reconciliations but her knowledge "*had massive holes in*". If she saw a shortage in a client account, she raised it with the bookkeeper who would explain why it was short. She trusted the bookkeeper;
- 13.8. She accepted that by not reporting the shortage on the client account reconciliations she was breaching the Accounts Rules;
- 13.9. The Respondent agreed there was a client account shortage of £40,780.95<sup>1</sup>

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<sup>1</sup> The discrepancy between this figure and the final shortfall figure of £41,055.95 arises from the shortage calculation at the Respondent's interview incorrectly including a shortage of £4,198 in respect of one client matter. The correct figure for that client should have been £4,464 so that the total shortfall is £41,055.95 as alleged;



- 13.10. She was taken through examples of payments of client monies which were paid into the office account and accepted she breached rule 14.1 of the Accounts Rules by failing to pay the monies into client account;
  - 13.11. She was taken through examples of transfers from client account and accepted a breach of rule 20.6 of the Accounts Rules by withdrawing funds from client account when there were insufficient funds in that client's account. However, at the time she was not aware that there were insufficient funds. This only became clear at a later date when a reconciliation was carried out. At that point it was rectified;
  - 13.12. She accepted that transactions which had taken place before one client had transferred to the Firm had been entered into the client's account ledger;
  - 13.13. Following receipt of the Qualified Accountant's Report, the Respondent had changed the process for carrying out reconciliations and for checking that cleared funds were available before making transfers to office account. She had taken steps including training to improve her understanding of what was required of her under the Accounts Rules. In addition, she had appointed professional accountants to undertake her bookkeeping and reconciliations.
14. Following completion of her investigation, the FIO produced a report which highlighted the following concerns:
- 14.1. The Firm's books of account were not in compliance with the Accounts Rules. In particular:
    - 14.1.1. The Firm had received client money totalling £24,477 into the office account with respect to 67 matters. However, it had recorded the receipts incorrectly on the client side of the client ledgers. The client ledgers therefore showed incorrect balances on both the client and the office side of the client ledgers ;
    - 14.1.2. The Firm had posted accounting entries to the client ledger in respect of one client (Mr B) for transactions which had not taken place and which related to payments and receipts on the matter prior to the transfer of the matter to the Firm from another firm of solicitors ;
    - 14.1.3. The Respondent informed the FIO that, due to the discovery of a number of book-keeping errors, the Firm had had to re-write its client account reconciliations between October 2016 and September 2018. Given the historical book-keeping errors, the client account

reconciliations produced prior to 30 September 2018 could not be relied on for accuracy ;

14.1.4. The client account reconciliations had not been undertaken properly. The revised client account reconciliation as at 30 September 2018 was not a three-way reconciliation and it had not been signed by the Respondent. The value of client liabilities was not shown on the reconciliation and it did not identify the potential client account shortages ;

14.1.5. Since the Firm commenced trading in October 2016 the Firm had not prepared client account reconciliations which showed the value of client liabilities and neither were they signed by the Respondent;

14.1.6. The Firm had failed to retain copies of the client matters reports as at 30 November 2016 and 31 October 2017. As a result it was not possible to compare the firm's bank and cashbook balances to the value of client liabilities as at those dates.

14.2. A client account shortage of £41,055.95 was identified as at the inspection date, 30 September 2018 ;

14.3. This shortage was rectified by office to client account transfers between 16 October 2018 and 18 June 2019, by which time it was fully replaced.

14.4. The report looked at five client matters which showed that the time taken to rectify shortages from the date the shortage arose ranged from 53 days to 732 days ;

14.5. The cash shortage of £41,055.95 was caused by:

14.5.1. Incorrect transfers from client to office bank account transfers totalling £33,848.34. Of these incorrect transfers, £27,013.25 related to 66 client matters. £21,067 was transferred in error to cover the firm's costs and disbursements in 59 matters when the office account had already received these funds (due to payments received from the client on account having been paid into the office account). £5,946.25 was transferred when there was insufficient money available in the client account with respect to 6 matters;

14.5.2. Client money incorrectly held in office account totalling £3,044. This was made up of payments for disbursements on 19 client matters

which had not been paid from the office account (£2,457), client money on account of costs on 4 matters which were unbilled as at 30 September 2018 (£352); Client money with respect to a probate matter (£100) and an uncleared office to client bank transfer on one matter (£135);

- 14.5.3. Incorrect payments from client bank account to third parties and clients totalling £4,163.61 in respect of 11 client matters where there was insufficient funds in the client account.
  - 14.6. Client money was being mistakenly paid into the Firm's office account due to an error by Worldpay;
  - 14.7. Since the commencement of the investigation, the Respondent had taken action to rectify the issues with the books of account. In particular, she had undertaken training in the Account Rules and had employed an accountancy practice to provide book keeping services and to prepare reconciliations;
  - 14.8. In the client account reconciliation as at 2 September 2019, there was a shortage of £41 which was replaced on 4 September 2019.
15. The Respondent became aware of a shortfall in the client account and of breaches of the Solicitors Accounts Rules upon receipt of the Qualified Accountant's Report dated 3 July 2018. The Respondent become aware of the full extent of the shortfall as at 30 September 2018 or shortly after that date. All but £736.54 of the shortfall was remedied by 26 November 2018 but the shortfall was not remedied in full until 18 June 2019. The minority of the shortfall was not remedied "promptly" upon discovery.
16. The shortfall and the breaches continued longer than they should have. The respondent was the sole principal and director of the Firm. She was also the Firm's COFA. Compliance with the rules, and responsibility for remedying any breaches, was therefore her responsibility even if breaches were caused by a bookkeeper

## **Mitigation**

17. The following mitigation is put forward by the Respondent but is not agreed by the SRA.
  - 17.1 The issues raised by the SRA were identified by, reported by and corrected by the Respondent of her own volition in collaboration with external accountants. Investigation and rectification was already underway prior to the commencement of the SRA investigation. The

Respondent has co-operated fully with the SRA investigation at all times and made prompt admissions.

- 17.2 No client has suffered any loss – or even any inconvenience – as a result of the issues identified, they arise from problems with the method of bookkeeping adopted by the Respondent’s former bookkeeper who was a trusted professional with whom the Respondent had worked before, albeit in the context of general accounts rather than solicitors’ accounts.
- 17.3 The issues identified arose through inadvertence and placing trust in a third party who regularly assured the Respondent that the accounts were properly managed and provided explanations for any issues identified. There was no intentional breach of the rules, there has been (and could be) no allegation of dishonesty, recklessness or lack of integrity.
- 17.4 The Respondent has taken extensive steps and incurred significant costs in rectifying the issues identified, which include instructing external accountants to rewrite the books from day one and undergoing training to fill the gaps in her own knowledge. Problems identified during the process of recreating the records from day one were corrected promptly and any delay in completing the process of rectification as a whole arose as a result of the nature of the process and the volume of transactions which needed to be verified and cross checked to ensure that all records were fully accurate before any action was taken. This process was made more difficult since the bookkeeper stopped responding to enquiries from the Respondent once notified of the SRA’s investigation.
- 17.5 The Respondent has no prior disciplinary issues and has worked hard to bring her practice back into compliance. She takes her professional obligations very seriously as demonstrated by the measures taken to put right that which had unfortunately gone wrong.

17.6 The Respondent offers her apologies to the Tribunal and the SRA for the failings identified.

17.7 The Respondent has had to incur irrecoverable costs in the context of these proceedings in order to protect her position despite indicating prior to referral to the SDT that she would be willing to accept a fine as the appropriate sanction for the issues identified.

### **Penalty Proposed**

18. Subject to the approval of the Tribunal, the Respondent agrees to pay a fine in the sum of **£5000.00**. She further agrees to pay the sum of **£10,000.00 including VAT** towards the SRA's costs. The proposed payment of costs has taken into account the Respondent's means.

### **Explanation as to why the proposed penalty would be in accordance with the Tribunals Sanctions Guidance**

19. The Applicant has considered the relevant factors in the Tribunal's Guidance Note on Sanctions (9<sup>th</sup> edition, December 2021), including the seriousness of the misconduct, the Respondent's culpability and the harm caused, or which might reasonably have been foreseen.

20. It is submitted that the following factors are relevant to the seriousness of the misconduct and the Respondent's culpability:

20.1. The Respondent was the sole principal in the Firm and had direct control of and responsibility for the Firm's client accounts;

20.2. As sole principal in the Firm, and as the Firm's COFA, the Respondent was responsible to ensure compliance by the Firm with the SRA Accounts Rules;

20.3. The Respondent was aware, as early as 3 July 2018 that there were shortages in the Firm's client ledgers but did not take prompt action to rectify the position;

20.4. The misconduct was not fully rectified until 18 June 2019;

20.5. The Respondent was relatively inexperienced, just three years' qualified, when she set up the Firm and has admitted that she did not fully understand the Firm's accounting system and the process of reconciling client ledgers;

20.6. The Respondent has cooperated with the SRA's investigation. She has made prompt admissions and has now taken steps to rectify the breaches and prevent recurrence including the appointment of professional accountants to conduct the Firm's bookkeeping

21. As regards harm, no clients suffered any loss as a result of the misconduct. However, there was an ongoing risk of harm in that client's funds were put at risk by reason of there being a shortfall of £41,055.95 in the Firm's client account and the failure fully to rectify that shortfall for a period of almost one year after the Respondent became aware of it.

22. Regard has also been had to the Tribunal's purpose in imposing sanctions.

23. In the circumstances it is submitted that the level of seriousness justifies a fine in the amount proposed.

**Signed:**

**Name: Danielle Louise Shawcross**

**Dated:**

**Signed:**

**Name: Ian Brook**

For and on behalf of the SRA

**Dated: 21 November 2022**