

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12381-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

GURPRALAD LANDA SINGH
KIM SINGH LANDA

First Respondent
Second Respondent

Before:

Ms T Cullen (in the chair)
Ms A E Banks
Mrs S Gordon

Date of Hearing: 17 January 2023

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against the First Respondent, Mr Gurpralad Landa Singh, made by the Solicitors Regulation Authority Limited (“SRA”) were that:
 - 1.1. In his capacity as COLP/COFA for the Firm, he failed to ensure adequate systems were in place for accurately recording dealings with client money, which contributed to the creation of a shortage on client account of £37,475.65 as at 31 October 2019. In so doing, he breached Rule 1.2(e) of the Solicitors Accounts Rules 2011 (“the Accounts Rules”) and Principle 8 of the SRA Principles 2011 (“the Principles”).
 - 1.2. In his capacity as supervisor, he failed to ensure that adequate enquiries were made in respect of two transactions that bore the hallmarks of property hijacks. In so doing, he breached Principles 6 and 8 of the Principles, and failed to achieve Outcomes 7.6 and 7.8 of the Solicitors Code of Conduct (“the Code”).
 - 1.3. He made transfers from client account otherwise than in respect of instructions relating to an underlying transaction as follows:
 - 1.3.1. Payment on 15 August 2018 of £62,091.40 to a Mr ADH, as part of the sale of a property at Ivy Grove, Leeds;
 - 1.3.2. Payment on 19 September 2018 of £48,176.40 to a Mr SG, as part of the sale of a property at Whitworth Road, Rochdale;

and in so doing he breached Rule 14.5 of the Accounts Rules and Principle 6 of the Principles.
2. The allegations against the Second Respondent, Mr Kim Singh Landa, were that when acting in relation to the assignment of a contract for the purchase of land at Silver Street, Bury, he:
 - 2.1. Paid out £100,000 of CA’s funds without adequate authority to do so, and thereby breached Principles 4, 6 and 10 of the Principles.
 - 2.2. Authorised payments out of client account which resulted in a deficit of £32,000 on client account, and in so doing breached Rule 20.7 of the Accounts Rules.
 - 2.3. Made transfers from client account otherwise than in respect of instructions relating to an underlying transaction as follows:
 - 2.3.1 Payment to ML of £25,000 on 15 October 2019;
 - 2.3.2 Payment to SDL of £25,000 on 15 October 2019.

and in so doing he breached Rule 14.5 of the Accounts Rules 2011
3. The Respondents admitted the allegations.

Documents

4. The Tribunal had before it the following documents:-
- Rule 12 Statement and Exhibit MLR1 dated 15 September 2022
 - Respondents' Answer dated 2 November 2022
 - Statement of Agreed Facts and Outcome dated 11 January 2023

Background

5. The First Respondent was admitted to the Roll in May 1981. He held a current unconditional practising certificate.
6. The Second Respondent was admitted to the Roll in November 2006. He held a current unconditional practising certificate.
7. The First Respondent was the owner of, and a solicitor at, HSK Solicitors LLP ("the Firm"). He was the Compliance Officer of Legal Practice ("COLP"), Compliance Officer of Finance and Administration ("COFA"), Money Laundering Reporting Officer ("MLRO"), Money Laundering Compliance Officer ("MLCO") and Training Principal at the Firm. The Second Respondent was a solicitor at the Firm.
8. The First Respondent held a 60% interest in the practice, the Second Respondent held a 39% interest in the practice with Mr IA holding a 1% interest.
9. The Firm's managers were assisted by one qualified member of staff and an unadmitted staff of fourteen. The Firm's fee income was from the following areas:
- Residential Property work – 32%
 - Commercial Property work - 30%
 - Personal Injury - 17%
 - Immigration - 15%
 - Matrimonial and landlord - 6%.

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

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

Findings of Fact and Law

11. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with 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.

12. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondents' admissions were properly made.
13. The Tribunal considered the Guidance Note on Sanction (10th Edition – June 2022). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
14. The First Respondent was an experienced solicitor, who had undertaken the compliance roles for the Firm. He had failed to ensure that the book-keeping was adequate causing systemic failures. He had failed to properly supervise and train junior members of staff. He had not understood the obligations imposed pursuant to Rule 14.5 and had thus authorised transactions in breach of that obligation. The Tribunal determined that the First Respondent's misconduct was such that sanctions of No Order or a Reprimand did not adequately reflect the seriousness of his misconduct. The Tribunal determined that a financial penalty was appropriate. It considered that his conduct fell within the Tribunal's Indicative Fine Band 3, as his conduct was assessed as being more serious. The Tribunal found that the proposed fine in the sum of £12,500 adequately reflected the seriousness of his misconduct. Accordingly, the Tribunal approved the proposed sanction.
15. The Second Respondent was an experienced solicitor who had conduct of Client CA's matter. He had paid out monies before he had sent a client care letter to Client CA. He had also been directly responsible for causing a deficit on the Firm's client account, and for paying out monies when there was no underlying legal transaction. The Tribunal noted that Client CA's money had been returned to her with interest. The Tribunal determined that the Second Respondent's misconduct was such that sanctions of No Order or a Reprimand did not adequately reflect the seriousness of his misconduct. The Tribunal determined that a financial penalty was appropriate. It considered that his conduct fell at the upper end of the Tribunal's Indicative Fine Band 3, as his conduct was assessed as being more serious (and more serious than that of the First Respondent). The Tribunal found that the proposed fine in the sum of £15,000 adequately reflected the seriousness of his misconduct. Accordingly, the Tribunal approved the proposed sanction.

Costs

16. The parties agreed that the Respondents pay costs in the sum of £30,000, with each to pay £15,000. The Tribunal found the agreed costs to be appropriate and proportionate and accordingly, it ordered the Respondents to pay costs in the agreed amount at the agreed proportions.

Statement of Full Order

17. The Tribunal Ordered that the Respondent, GURPRALAD LANDA SINGH solicitor, do pay a fine of £12,500.00, 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 £30,000.00, to be apportioned 50/50 with the Second Respondent.
18. The Tribunal Ordered that the Respondent, KIM SINGH LANDA, solicitor, do pay a fine of £15,000.00, 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 £30,000.00, to be apportioned 50/50 with the First Respondent.

Dated this 20th day of January 2023
On behalf of the Tribunal

A handwritten signature in blue ink, consisting of a large, stylized initial 'T' followed by a series of loops and a trailing line.

T Cullen
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
20 JAN 2023

IN THE SOLICITORS DISCIPLINARY TRIBUNAL

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

B E T W E E N:-

SOLICITORS REGULATION AUTHORITY

Applicant

- and -

(1) GURPRALAD LANDA SINGH (123434)

(2) KIM SINGH LANDA (378118)

Respondents

STATEMENT OF AGREED FACTS AND OUTCOME

Introduction

1. By an Application and statement made by Mark Lloyd Rogers on behalf of the Applicant, the Solicitors Regulation Limited ("SRA"), pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019 dated 15 September 2022, the SRA brought proceedings before the Tribunal making allegations of misconduct against the Respondents. Definitions and abbreviations used herein are those set out in the Rule 12 Statement. The Tribunal made Standard Directions on 21 September 2022. There is a substantive hearing listed for 17 January 2023.

Admissions

2. The First Respondent, Mr Gurpralad Landa Singh and the Second Respondent, Mr Kim Singh Landa, 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 the First and Second Respondents are that (the numbering of the Allegations are retained from the Rule 12 Statement):

Allegation one: The allegations against the First Respondent, Mr Gurpralad Landa Singh, are that:

- 1.1. In his capacity as COLP/COFA for the Firm, he failed to ensure adequate systems were in place for accurately recording dealings with client money, which contributed to the creation of a shortage on client account of £37,475.65 as at 31 October 2019. In so doing, he breached Rule 1.2(e) of the Solicitors Accounts Rules 2011 and Principle 8 of the SRA Principles 2011
- 1.2. In his capacity as supervisor, he failed to ensure that adequate enquiries were made in respect of two transactions that bore the hallmarks of property hijacks. In so doing, he breached Principles 6 and 8, and failed to achieve Outcomes 7.6 and 7.8 of the Solicitors Code of Conduct.
- 1.3. He made transfers from client account otherwise than in respect of instructions relating to an underlying transaction as follows:
 - 1.3.1. Payment on 15 August 2018 of £62,091.40 to a Mr ADH, as part of the sale of a property at Ivy Grove, Leeds;
 - 1.3.2. Payment on 19 September 2018 of £48,176.40 to a Mr SG, as part of the sale of a property at Whitworth Road, Rochdale;and in so doing he breached Rule 14.5 of the SRA Accounts Rules 2011 and Principle 6 of the SRA Principles 2011.

2. **Allegation two:** The allegations against the Second Respondent, Mr Kim Singh Landa, are that when acting in relation to the assignment of a contract for the purchase of land at Silver Street, Bury, he:

- 2.1. Paid out £100,000 of CA's funds without adequate authority to do so, and thereby breached Principles 4, 6 and 10 of the SRA Principles 2011.
- 2.2. Authorised payments out of client account which resulted in a deficit of £32,000 on client account, and in so doing breached Rule 20.7 of the Solicitors Accounts Rules.
- 2.3. Made transfers from client account otherwise than in respect of instructions relating to an underlying transaction as follows:
 - 2.3.1. Payment to ML of £25,000 on 15 October 2019;
 - 2.3.2. Payment to SDL of £25,000 on 15 October 2019.

and in so doing he breached Rule 14.5 of the SRA Accounts Rules 2011

The facts and matters relied upon in support of Allegations 1.1 – 1.3 and 2.1 – 2.3

Professional background

4. The First Respondent was admitted to the Roll on 1 May 1981. The Second Respondent was admitted to the Roll on 15 November 2006.
5. The First Respondent was the owner of, and solicitor at, HSK Solicitors LLP ("the Firm"). He was the Compliance Officer of Legal Practice ("COLP"), Compliance Officer of Finance and Administration ("COFA"), Money Laundering Reporting Officer ("MRLO"), Money Laundering Compliance Officer ("MLCO") and Training Principal at the Firm. The Second Respondent was a solicitor at the Firm.

Ivy Grove Sale

6. On 26 June 2018, the Firm received instructions purportedly from a "Mrs L" to act on her behalf in the sale of a property in Ivy Grove, Leeds to a YL and SZ represented by Keebles Solicitors of Leeds. The matter was dealt with by Mr Fahim Khan, a trainee solicitor under the supervision of the First Respondent. The First Respondent was also responsible for Mr Khan's training contract.
7. When Mrs L first attended the office, she attended with a person purporting to be the estate agent – a Mr Ghani of Click2Move. Mr Khan says that he had no prior knowledge of or relationship with Mr Ghani.
8. The file included a copy of Mrs L's driving licence and a utilities bill addressed to Mrs L at the property. The file also showed that Mrs L purported to be able to organise gas and electricity reports for the property.
9. By letter dated 31 July 2018, the purchasers' solicitors wrote:
 - "2. Please provide your undertaking that you have taken reasonable steps to establish your client's identity and connection to the property being sold.
 3. Please provide confirmation that Leeds City Council have been given first refusal and that they do not wish to proceed with purchasing the property."

10. The Firm responded as follows:

"2. We provide our undertaking that we have taken reasonable steps to establish our client's identity and connection to the property being sold.

3. Please find attached letter from Leeds City Council confirming that they do not wish to proceed with the purchasing of the property."

11. As to (2), Mr Khan explained to the Forensic Investigation Officer ("FIO") that:

"I had met with the client and examined her original ID paperwork. I had taken a copy of her passport, water bill and she was able to provide sufficient details of the property for the property information form. She also had information such as the gas and electric certificates of the property she was selling.

...

We believe that our firm has complied with the undertaking. We had personally met her. We examined her personal ID documents and an original utility bill. This was addressed to her at the subject property. She also had sufficient information about the property and gas and electricity certificates for her."

12. As to (3), the letter from Leeds City Council was undated, bore no reference, and was unsigned. It purported to be from a "Steve Martins". The letter was not worded in a way that a council official would have worded it:

"We appreciate your recent communication in offering the property back for us to buy, although we do have first refusal on Buying your property off you, but unfortunately we have no interest in buying [X] Ivy Grove Leeds..."

13. Leeds City Council has since confirmed to the FIO that the letter was a crude forgery.

14. Mr Khan explained to the FIO why he did not consider it fraudulent at the time:

"The document contained the letterhead of Leeds City Council and the format of the letter appeared genuine to us. It is sometimes different when you look at documents in hindsight. The letter was shown to Mr Daniel Wilson of Keebles Solicitors, who was the buyer's solicitor. He has not raised enquiries in relation to the document. Mr GL Singh has also reviewed the file before completion."

15. On or about 14 August 2018, Mrs L attended the office with someone purporting to be ADH, who she claimed was her son. By a declaration dated 14 August 2018, Mrs L authorised the Firm to remit the net proceeds of sale to her son's bank account. The Firm obtained a copy of a driver's licence in that name which showed his address as being at South Pilmuir Road, Clakmannan, Scotland.

16. Mrs L is a Chinese lady. ADH is a white man. As to whether the Firm was concerned by this apparent discrepancy, Mr Khan explained to the FIO that:

"We did not have any concern or doubts about whether [ADH] was Mrs [L's] son...He could have been adopted by our client."

17. Mr Khan did not seek an explanation as to why the funds were being paid to ADH. He explained to the FIO that:

"We have not discussed in detail why the net proceeds of the sale were to be paid to the son. She was insistent that her instructions to pay her family member be adhered to."

18. On 15 August 2018, the matter completed. The Firm remitted the sum of £62,091.40 to ADH's bank account. The First Respondent has confirmed that he authorised the payment to ADH.

19. When it was put to the First Respondent that the Client was an imposter, he responded on 23 April 2020 as follows:

"We are unable to say this with certainty. The alleged true owner instructed solicitors to write to us following completion and we gave them some initial information. They were to send a pre-action protocol letter in March 2019 but this has not been received in over one year. Nor have they may any claim on Keebles Solicitors. It is clear that our client had access to the property. She was also able to organise gas and electricity reports for the property which require access for inspection."

Whitworth Road Sale

20. On 6 August 2018, the Firm was purportedly instructed by a "Mr MF" to act in the sale of a property at Whitworth Road, Rochdale, Lancashire. The matter was dealt with Mr Fahim Khan, a trainee solicitor, under the supervision of the First Respondent. The purchasers were a ZR and SRB, who were represented by HCB Park Woodfine solicitors.

21. When Mr MF first attended at the Firm's office, he attended with a person purporting to be the estate agent in respect of the sale – Mr Ghani of Click2Move. As observed above, prior to the Ivy Grove sale, Mr Khan had never had anything to do with Mr Ghani.

22. Mr MF provided the Firm with his driving licence, a utility bill addressed to him at the property, and a bank statement addressed to him at the property.

23. When asked by the FIO why he was satisfied that Mr MF was not an imposter, Mr Khan answered:

"He provided original ID that matched the name of the proprietor shown on the title register. He has provided original address proof and electricity certificate that matched the address of the property he was selling. He had sufficient information regarding the property."

24. The buyer's solicitors asked for a copy of a commercial lease which related to a part of the premises. The Firm purported to be able to obtain this from its client, and to supply it to the buyer's solicitors.

25. The initial sale price was £63,000, but the price was reduced to £50,000 provided there was a *"quick completion"*. When asked by the FIO whether this caused Mr Khan any concern, he answered:

"Sellers sometimes do reduce prices to achieve a quick completion. This did not cause concern."

26. A file note dated 17 September 2018 stated that Mr MF authorised the Firm to transfer the sale balance to the bank account of a Mr SG. The Firm took a copy of Mr SG's driving licence. This showed Mr SG's address as being at Garden Terrace, Clackmannan, Scotland. This was approximately one month after the Ivy Grove sale, which also involved remittance of funds to a third party with an address in Clackmannan, Scotland. Clackmannan is a small town with an estimated population of approximately 3,260 in mid-2020. It was exceedingly unlikely to be coincidence. When this was put to Mr Khan, he explained that:

"They were two different matters and these matters did not happen at the same time. It is different when these two matters are examined with the benefit of hindsight."

27. Mr Khan explained that the client asked him to pay the net proceeds to a third party because:

"There was some urgency as he owed his ex-wife money. Mr [SG] was his ex-wife's new partner."

28. On 19 September 2018, the matter completed. The First Respondent reviewed the file before completion. The same day, the Firm remitted £48,176.40 to Mr SG's bank account.

29. The First Respondent has confirmed that he authorised the payment to Mr SG.

Property Hijacks

30. Mr Khan under the supervision of the First Respondent failed to note the following red flags:

- 30.1. The obviously forged letter in respect of Ivy Grove;
- 30.2. That a Chinese woman claimed to have a white son;
- 30.3. That two sets of payments in apparently unconnected transactions were both made to individuals with an address in the small town of Clackmannan, Scotland;
- 30.4. That the Firm was being asked to transfer proceeds of sale to third parties, rather than to the vendors who could then transfer the funds as they wished;
- 30.5. The significant reduction in purchase price of Whitworth Road;
- 30.6. The pressure to complete both sales quickly.

31. In all the circumstances, they failed to appreciate the risk that these transactions involved "property hijacks", i.e. the fraudulent sale of a property by an imposter pretending to be its owner.

32. The First Respondent failed to provide adequate training to Mr Khan to be able to spot these red flags and failed to provide adequate supervision to a poorly trained trainee.

33. At interview with the FIO, the First Respondent stated as follows:

"...several times throughout the case [Mr Khan] comes to discuss the case with us because we're both here almost all the time and we meet Faheem several times during the day and he'll discuss matters with us. We check all the incoming post, well I do anyway personally and I sign all the outgoing post and then we, in particular, we have longer meetings immediately before exchange of contracts and immediately before completion and following completion we have another meeting to discuss closure of the file."

Silver Street

34. At an auction on 8 October 2019, Company A agreed to purchase Silver Street for £420,000 plus auction fees of £4,680. Contracts were exchanged on that day.

35. A firm known as Company S wished to take over the purchase. It paid £46,680 to the Firm.

36. On 10 October 2019, the Firm sent a client care letter not to Company S, but rather to an entity known as "Company P" in respect of instructions to act in the purchase of Silver Street. The Second Respondent was named as the solicitor acting in the matter, under the supervision of the First Respondent. The Firm has explained that:

"The ledger for the purchase of [xx] Silver Street shows the client as [Company P] as this is another company owned by the director [of] [Company S] and they were considering proceeding in this name rather than [Company S]."

37. By letter dated 11 May 2020, the Firm also explained that:

"We were instructed at first by [Company P] the officers of which were previously the same as [Company S]. Although the officers have now changed the company is a related company and the clients decided to proceed in the name of [Company S] after instructing us in the name of [Company P]."

...

Although the officers have now changed the officers were previously family members and the companies are related. [AK] is a director of [Company S] whilst [TK] his father was the director of [Company P]. The directorship of [Company P] has been transferred to a business partner and the companies still work in conjunction with each other."

38. However, Companies House shows no apparent current or former link, or identity of directors or owners, between Company P and Company S.

39. Company S/Company P decided not to proceed with the purchase and sought the return of its funds. It indicated that a Mr MS would be taking it forward instead.

40. On 14 October 2019, an attendance note records that:

"11.10am

Mansha [S] rang he is now buying [xx] Silver Street Bury. Funds coming from Denmark, Collette and Faruk. I explained we need IDs + bank statements.

15.47pm

Mansha confirmed funds have been sent £100,000.00 from abroad

15.59

Mansha rang he is sending 50k from Make My Vape as abroad funds may take some days to arrive and he may lose the sale."

41. The "Collette" referred to in the above attendance note was one CA, a businesswoman based in Denmark. She would be contributing the £100,000.

42. In the event, on 14 October 2019 the £100,000 was received into client account from CA with the following reference "*down payment for [xx] Silver Street, Bury BL9 0EU as instructed by [MS].*"

43. On 15 October 2019, the Firm sent a client care letter addressed to a consortium made up of MS, FM, and CA in respect of instructions to act in the purchase of Silver Street. The Second Respondent was named as the solicitor acting in the matter, under the supervision of the First Respondent.

44. An attendance note dated 15 October 2019 records that:

"Mansha rang, wants us to send auction house 46,680.00. We explained that [Company A] exchanged at auction he is buying from them as back to back. Mansha asked that we use balance to pay [ML] his friend £50k. He will provide bank details. Asked us to return £50k received from [Company V] as abroad funds have arrived. He confirmed we can pay [Company A] their commission of £35,320.00."

45. Between 14-15 October 2019, the Firm distributed the funds as follows:

- 45.1. £25,000 to ML;
- 45.2. A further £25,000 to ML's associate, MDL;
- 45.3. £50,000 returned to Company V;
- 45.4. £35,320 as commission to Company A;
- 45.5. £46,680 to Company S, which had requested the return of its funds.
- 45.6. £46,680 to Auction House.

46. The above payments led to a shortfall on the client ledger of £32,000.

47. The reasons for some of the above payments are not clear. First, two lots of £46,680 were paid, representing the original deposit plus commission. However, if Company S had already paid this sum to the Auction House upon exchange, then it is unclear why Auction House needed to be paid again. If it had not been paid upon exchange, then it is unclear why this amount needed to be refunded to Company S.

48. Second, the payment to Company A. By email dated 31 October 2019, Mr Singh sought to explain to CA that:

"the deposit is £2,000 with fees of £4,680 and a commission payment of £35,320 is payable to [Company A] Ltd..."

49. As to this:

- 49.1. It is unclear why Company A needed to be paid at all, given that they had already dropped out and commission of a similar amount had been paid to Company S;
- 49.2. Fees of £46,680 had been paid directly to Auction House and to Company S from client account, so it was unclear why these had to be reimbursed to Company A. This seems to have been a triple payment for the same thing.
- 49.3. Curiously, the sums referred to in the email add up to £42,000, which equates to exactly 10 percent of the purchase price. It is likely therefore that this is the sum that would have been paid by way of deposit at the point of exchange. This seems too much of a coincidence. Rather, it seems that the breakdown of deposit, fees, and commission payment were after-the-event constructs.

50. Third, the payments to ML and MDL were not connected with instructions relating to the underlying transaction. The Firm has provided differing reasons for these payments. In a letter dated 31 January 2020, the Second Respondent explained to the FIO that:

"we were instructed by [MS] that a payment of £25,000 should be sent to [ML] and [MDL] who are existing clients of HSK Solicitors as they were going to purchase the property with the original buyer [Company A] and this was the agreed commission due to them from [MS] as part of the deal."

51. Thus, ML and MDL were part of the original consortium with Company A, and the £50,000 represented commission. This then would appear to be a third lot of commission, on top of that paid to Company A and to Company S.

52. In a further letter dated 25 March 2020 from the Second Respondent's representatives, he explained to the FIO that:

"[ML] and [MDL] are existing clients of HSK who were purchasing the property with [MS], [CA] and [FM]. We were instructed to return funds to [ML] and [MDL] and it was considered appropriate as they were existing clients and may have paid the monies privately to either [Company V] or [CA] from whom £150,000 had already been received."

53. Now it was being said that they were part of the consortium with MS, CA and FM purchasing the Silver Street property *from* Company A. On this explanation, there is no clear reason for them to have been paid £50,000.

54. In a further letter dated 11 May 2020, the Second Respondent explained to the FIO that:

"The payment was made to [ML] and [MDL] pursuant to instructions received from [Company A]. [ML] and [MDL] were a part of the initial consortium of clients purchasing the property, [Company A] and [ML] and [MDL]. They had exchanged contracts at Auction House via [Company A] and in the event that they were not proceeding with the purchase then they required return of any funds invested together with commission. As we have acted for [ML] and [MDL] previously and were aware of their involvement in the purchase, we were content that the payment to [ML] and [MDL] was very much part of this conveyancing transaction."

55. Now ML and MDL had reverted to being part of the original consortium. The instructions to pay them £50,000 came from Company A, who were not a client of the Firm, rather than MS. Additionally, Company A were paid separately, and it is unclear why ML and MDL also needed to be paid (and indeed paid considerably more than Company A).

56. At interview with the FIO, the Second Respondent explained that he sent the money to ML and MDL because he was instructed to do so by MS, but with no explanation as to the reason for the payment.

57. At interview, the Second Respondent sought to explain that it had been an error to pay *both* Company V *and* ML and MDL, which was caused by the fact that the books were not kept sufficiently up to date. He explained that, at the time he authorised the transfers, he was under the impression that £50,000 remained available, and that he did not believe that these transfers were effectively eating into CA's funds.

58. On 25 October 2019, CA contacted the Firm to say that she no longer wished to purchase Silver Street, and asking for the return of her £100,000.

59. There followed discussions about how the property would be purchased.

60. By an agreement dated 29 November 2019 ("the Agreement"), the contract for the purchase of Silver Street was assigned from Company A to Company L. The Agreement provided, amongst other things, that on the date of the agreement Company L would reimburse the deposit of £42,000 paid by Company A to the original sellers. The purpose of this is unclear: that sum had already been reimbursed on 15 October 2019.

61. By a loan agreement dated 20 December 2019, the Second Respondent agreed to borrow the sum of £100,000 from CA, repayable within six months at a rate of 1% interest per month. The Second Respondent duly repaid the £100,000 plus interest.

62. By letter to the FIO dated 31 January 2020, the Second Respondent explained that:

"6. In between 20th December and 23rd December 2019 a new client was introduced to purchase the property and we received confirmation from them that they had sent £100,000 to our account. The client was [Company M] who are regular property clients of ours. On the basis of having confirmation from the bank of [Company M] that £100,000 had been sent to us we remitted the sum of £42,124.63 to Latimer Lee Solicitors who were acting on the purchase of the property...

7. We were instructed by [Company M's] to transfer the remaining funds (£13,708.70) to property agents assisting in the acquisition of the property."

63. This is inconsistent with the fact that the Second Respondent's company became the new buyer. The Firm has since sought to explain that, for a period, Company M were proposing to purchase the property rather than merely act as lender. It is nevertheless inexplicable why the letter of 31 January 2020 made no mention of the fact that the Second Respondent's company had purchased Silver Street. Further, there is no evidence that M&M Investments were ever a client of the Firm in respect of this property purchase.

Shortage on client account

64. As observed above in relation to the Silver Street transaction, the ledger showed a debit balance of £32,000.

65. In addition, overpayments and over-transfers had been made on thirty-six other client ledgers, leading to a total debit balance of £37,475.65 as at 31 October 2019.

66. The reason these debit balances arose is that the Firm's books of accounts were not written up sufficiently regularly for fee earners to check all of the funds available on the individual client ledgers before making payments/transfers. On a number of them, there were insufficient funds available from which to make the payments/transfers.

67. Rather than allowing the ledgers to show a debit balance, the bookkeeper would subsequently enter the expected receipt of funds on the credit side of the ledger as an "advanced posting", with funds expected to follow.

68. The cash shortage was addressed in full by 3 December 2019 by way of office to client bank account transfers, funds introduced from the managers and funds received from third parties in respect of the managers' transactions.

Allegations – First Respondent

Allegation 1.1 – allowing shortage to arise on client account

69. The First Respondent was the COFA of the Firm. Rule 6.1 of the Solicitors Accounts Rules provides that:

“All the principals in a firm must ensure compliance with the rules by the principals themselves and by everyone employed in the firm. This duty also extends to...the COFA of a firm (whether a manager or non-manager.”

70. As described above, the Firm did not have a system in place for updating client ledgers with sufficient regularity. The ledgers could show more funds on client account than was in fact the case, and funds could therefore be paid out when no funds were in fact available. As described above in respect of the Silver Street transaction, this led to £32,000 being paid out when these funds were not available. In addition, there were 36 other overpayments leading to a total debit balance of £37,475.65 as at 31 October 2019. The problem was a systemic one. In failing to put in place an adequate system to ensure client shortages did not occur, the First Respondent breached:

70.1. 1.2(e): *(you must establish and maintain proper accounting systems, and proper internal controls over those systems, to ensure compliance with the rules)*. The First Respondent failed to ensure that an adequate bookkeeping system was in place, which led to multiple breaches of Rule 20.6 of the Solicitors Accounts Rules (as to which see below).

70.2. 1.2(f): *(you must keep proper accounting records to show accurately the position held with regard to the money held for each client)*: The bookkeeping records were not kept up to date and therefore did not accurately show the correct amount of funds held for each client on client account.

70.3. 20.6: *(Money withdrawn in relation to a particular client or trust from a general client account must not exceed the money held on behalf of that client or trust in all your general client accounts)*: As at 31 October 2019, there were 37 different clients matters in respect of which more funds had been withdrawn than was held on client account in respect of that client. In respect of the Silver Street transaction, the deficit was as much as £32,000.

70.4. 29.14: *(All shortages must be shown)*: The system devised by the bookkeeper meant that shortages were not shown, but were shown instead as advance postings.

70.5. Principle 8 *(run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial and risk management principles)*: As a result of the above breaches of the Accounts Rules, the First

Sensitivity: General

Respondent did not carry out his role as COFA effectively or in accordance with proper governance.

Allegation 1.2 – inadequate supervision in respect of potential property hijacks

71. It is not known whether the two transactions in question were in fact property hijacks. However, they bore some hallmarks of being property hijacks. A trainee had day-to-day conduct of the two matters. The First Respondent was responsible for both the training of the trainee in general, and the supervision of these two files in particular. The trainee failed to spot the obvious hallmarks and to make enquiries about them. That indicates a lack of adequate training. According to the evidence of both the First Respondent and the trainee, they would speak several times each day, with a file review prior to both exchange and completion. These obvious hallmarks ought to have been picked up as part of that process. The fact that they were not demonstrates that the supervision was inadequate. In failing to provide adequate training or supervision, the First Respondent breached:

- 71.1. Principle 6: The public expects solicitors charged with the day-to-day conduct of a case to be in a position to identify obvious hallmarks of fraud, and either to make further enquiries into this or to cease to act. It would be alarmed by a solicitor who put a trainee into a position where they were not adequately prepared to carry out this basic task.
- 71.2. Outcome 7.6: *(you train individuals working in the firm to maintain a level of competence appropriate to their work and level of responsibility)*. If a trainee was unable to spot these obvious hallmarks of a property hijack, he should not have been given the degree of autonomy that he was.
- 71.3. Outcome 7.8 *(you have a system for supervising clients' matters, to conclude the regular checking of the quality of work by suitable competent and experienced people)*. If the system allowed these obvious hallmarks of a property hijack to escape the net, then the supervision system was inadequate.

Allegation 1.3 – transfers to third parties

72. The First Respondent has said that he was directly responsible for authorising the following transactions:

- 72.1. Payment on 15 August 2018 of £62,091.40 to a Mr ADH, as part of the sale of Ivy Grove, Leeds;
- 72.2. Payment on 19 September 2018 of £48,176.40 to a Mr SG, as part of the sale of Whitworth Road, Rochdale.

73. The underlying transactions were the sales of the two Properties. In general, proceeds of sale should be paid directly to the vendor. The only exceptions are where there are

payments to be made which are directly connected with the property transaction itself, such as payments for estate agents' commission, or the Land Registry. By contrast, payments of proceeds to third parties who are not legally or directly connected with the transaction fall foul of Rule 14.5 and indeed are a classic red flag for potential property fraud or money laundering.

74. The SRA's Warning Notice "*Improper use of client account as a banking facility*" (date first published: 18 December 2014) provides as follows:

"The rule [rule 14.5] is not intended to prevent usual practice in traditional work undertaken by solicitors such as conveyancing, company acquisitions, the administration of estates or dealing with formal trusts. So, it does not affect your ability to make usual and proper payments from client account when they are related to the transaction (such as the payment of estate agents' fees in a conveyancing transaction).

Whether there is such a proper connection will depend on the facts of each case. The fact that you have a retainer with a client is insufficient to allow you to process funds freely through client account. You need to think carefully about whether there is any justification for money to pass through your client account when it could be simply paid directly between the clients."

75. Moreover, there were a number of red flags in respect of these particular payments, that meant all the greater care ought to have been taken before agreeing to make payments to third parties:

- 75.1. Requests were made at the last minute to pay the proceeds of sale into a different account;
- 75.2. In respect of the Ivy Grove sale:
- a. The Firm was provided with a crudely forged letter;
 - b. The Firm was asked to pay funds to the account of the client's son, a white man, when the client was Chinese.
- 75.3. In respect of the Whitworth Road sale, the funds were to be paid to a third party with a residential address in Clackmannan, which is what had happened only a month before. Clackmannan is a memorable place name and this was a highly unlikely coincidence.

76. The conduct was also a breach of Principle 6. The public would be alarmed by a solicitor who, in the face of such obvious red flags, was nevertheless willing to pay proceeds of sale to a third party in breach of the accounts rules.

Allegations – Second Respondent

Allegation 2.1

77. The Second Respondent received £100,000 from CA, marked with the reference “*down payment for [xxx] Silver Street, Bury BL9 0EU as instructed by [MS].*” That reference was ambiguous. For example: was it simply a payment reference, or was it meant as an instruction? Did “as instructed by [MS]” mean that the funds were to be used as instructed by MS, or that the sender had been instructed to send the funds by MS? What exactly was meant by “down payment” – did this include only the deposit on the Property, or other payments such as commission or part of the full sale price as well?
78. The Second Respondent did not call CA to clarify and indeed did not speak to her at all until all the funds had been dissipated. All communications had been with MS. The Second Respondent did not have any form of authority from CA to the effect that MS could give instructions on her behalf.
79. Indeed, the Second Respondent started making payments out of the £100,000 before he had even sent a client care letter addressed to CA.
80. The funds were not spent solely on a “down payment” for the Property but were also used to pay sums to ML and MDL, and various commissions.
81. As set out above at paragraph 50, the purpose of some of the payments that were made is unclear. There is no evidence that CA received advice about what these payments were for, prior to the Firm releasing her funds.
82. Given the ambiguities in the instruction, the fact that there had been no direct contact between CA and the Second Respondent, and the non-straightforward manner in which the funds were to be spent, the Second Respondent did not have adequate instructions to release the funds in the way that he did.
83. In so doing, the Second Respondent breached:
- 83.1. *Rule 20.1(f) of the Solicitors Accounts Rules (Client money may only be withdrawn from a client account, when it is withdrawn on the client's instructions, provided the instructions are for the client's convenience and are given in writing, or are given by other means and confirmed by you the client in writing).* The Second Respondent did not have adequate instructions to withdraw the funds from client account, whether in writing or otherwise.

- 83.2. *Principle 4 (acting in the best interests of each client):* The funds ought only to have been paid upon CA's clear instructions. Moreover, she ought to have been fully advised prior to giving any such instructions as to the reasons for each of the payments that were made. By failing to do so, £100,000 of CA's funds were dissipated in circumstances where she may not have wanted this.
- 83.3. *Principle 6:* The public would be alarmed by a solicitor who released £100,000 of client funds on the say-so of one of the client's associates, without properly advising the client herself or checking with her what she wanted. It was a significant sum of money. It would have been a matter of relative ease for the Second Respondent to give advice and to seek instructions.
- 83.4. *Principle 10:* CA's funds were released without adequate authority to do so. Moreover, there remains no clear explanation as to why these payments needed to be made in order to secure the sale. The withdrawal of funds without proper advice or authority was a failure to protect CA's client funds.

Allegation 2.2

84. The Second Respondent authorised transactions which resulted in a £32,000 deficit on client account. This was partly a systemic issue as described above. However, the Second Respondent has also explained that he ought not to have authorised the payments to both ML and MDL on the one hand, and to Company V on the other. He made a large number of transactions within a small space of time and from a limited pot of money and was keeping a handwritten tab. He ought to have recognised that he was creating a deficit. In doing so, he breached Rule 20.6 of the Code of Conduct 2011: *(Money withdrawn in relation to a particular client or trust from a general client account must not exceed the money held on behalf of that client or trust in all your general client accounts)*

Allegation 2.3

85. The Second Respondent authorised payments to ML and ML's associate in the total sum of £50,000. No consistent explanation has been provided as to why these payments needed to be made, let alone their connection with the transaction. As such, the payments to them were not connected with instructions arising from the underlying transaction and were a breach of Rule 14.5.

Mitigation

86. The following points are advances by way of mitigation on behalf of the First Respondent but their inclusion in this document does not amount to adoption or endorsement of such points by the SRA:

Mitigation on behalf of the First Respondent ("GS")

- (a) GS has been a Solicitor for 41 years. He had an unblemished professional career prior to these events.
- (b) GS has fully cooperated with SRA and this Honourable Tribunal throughout. He engaged fully with the SRA investigation process and made prompt admissions in his answer – B1-B4. GS is apologetic and wholly insightful.
- (c) With respect to the sale transactions re Ivy Grove and Whitworth Rd: -
 - (i) It is not alleged that the transactions necessarily represented property hijacks but GS has always accepted that they bore the hallmarks of such activity;
 - (ii) They represent two isolated matters in the lengthy career of GS.
 - (iii) The trainee who had day to day of the sales had not given GS cause for any concern in relation to any other matters either before or since.
 - (iv) The failings of GS were of omission and not commission.
- (d) Where client account shortages arose these were the result of systemic failings. GS and the firm were let down by a bookkeeper who had been dilatory in writing up ledgers and reconciling bank accounts. The result was that some ledgers showed client balances in excessive amounts. The shortages were not created deliberately. They were promptly remedied and the bookkeeper was replaced as soon as could be arranged.
- (e) GS has not caused losses to any party. Neither has he made any improper gain.
- (f) GS is not accused of any dishonesty, lack of integrity, recklessness, or breaches of the Money Laundering Regulations.

87. The following points are advances by way of mitigation on behalf of the Second Respondent but their inclusion in this document does not amount to adoption or endorsement of such points by the SRA:

Mitigation on behalf of the Second Respondent ("KL")

- (a) With respect to Ms CA far from having made a complaint to any party Ms CA has made clear her full support of KL. Please see X759-X762.
- (b) Ms CA had taken independent legal advice and was content to proceed with her transaction.
- (c) The payments out of client account to ML and LL were made in error. KL accepts that they should not have been made in any event.
- (d) The various parties involved in the Silver St transaction were known to KL and due diligence was carried out with respect to all of them.
- (e) The points set out above at paragraph 86 (b), (d), (e) and (f) all apply equally to KL.

Agreed Outcome

88. The First Respondent admits all of the above Allegation One and agrees:

- 88.1. To pay a financial penalty in the sum of **£12,500**
- 88.2. To pay costs to the SRA agreed in the sum of **£30,000.00** (to be apportioned 50:50 with the Second Respondent).

89. The costs set out above include a reduction for the case having concluded by way of an Agreed Outcome and is an apportioned amount of the overall SRA costs incurred in total.

90. The Second Respondent admits all of the above Allegation Two and agrees:

- 90.1. To pay a financial penalty in the sum of **£15,000**
- 90.2. To pay costs to the SRA agreed in the sum of **£30,000.00** (to be apportioned 50:50 with the First Respondent).

91. The costs set out above include a reduction for the case having concluded by way of an Agreed Outcome and is an apportioned amount of the overall SRA costs incurred in total.

Explanation as to why such an order would be in accordance with the Tribunal's sanctioning guidance (10th edition)

92. The parties consider and submit that in light of the admissions set out above and taking due account of the mitigation put forward by the First and Second Respondents, the proposed outcome represents a proportionate resolution of the matter, consistent with the Tribunal's Guidance Note on Sanction (10th edition).

93. It is agreed that:

93.1. The seriousness of the misconduct is such that a reprimand is not sufficient for the protection of the public and the protection of the reputation of the profession;

93.2. Neither the protection of the public nor the protection of the reputation of the legal profession justifies suspension from or striking off the Roll;

93.3. Considering the facts above and the aggravating and mitigating factors discussed below, the seriousness of the misconduct giving effect to the purpose of the sanction, this case falls in a bracket in which a fine is appropriate for the First and Second Respondents. Public confidence in the legal profession demands no lesser sanction;

94. In respect of the level of culpability and harm for the First Respondent:

94.1. The First Respondent had been on the Roll for nearly 37 years at the time of these allegations (Allegation 1.1 to Allegation 1.3). He was a very experienced solicitor.

94.2. In respect of Allegation 1.1, the First Respondent was the Firm's COFA. He was therefore required to ensure compliance with the Solicitors Accounts Rules by both himself and by everyone in the Firm.

94.3. He allowed a shortage to arise on client account, comprising 37 overpayments leading to a total debit balance of £37,475.65. It was a systemic problem which arose as a result of the First Respondent failing to ensure adequate bookkeeping was in place; failing to ensure that the books were up to date; and failing to ensure that he was acting in accordance with proper governance, and sound financial and risk management principles.

94.4. In respect of Allegation 1.2, the First Respondent was not the direct caseholder of the two files in question. Nevertheless, he was responsible for the training of the

trainee who was the direct caseholder, and for the supervision of his work. The failure of the trainee to spot the obvious hallmarks of property hijacks were the result of the failures of the First Respondent to train and/or supervise the trainee adequately.

94.5. In respect of Allegation 1.3, the First Respondent was directly responsible for authorising the transactions of £62,091.40 (Ivy Grove) and £48,176.40 (Whitworth Road). This was a clear breach of Rule 14.5 of the Solicitors Accounts Rules. The First Respondent said in interview that he did not realise at the time that this was a breach, but now accepts that it was. Further, due to the number of red flags in relation to these transactions, the First Respondent should have been on notice as to the need to take even greater care before authorising payments to third parties.

94.6. It is not clear whether actual harm was caused on the apparent property hijacks and, if so, whether it was put right. Nevertheless, the proceeds of sale of the two properties were at least put at potential risk.

94.7. The actions of the First Respondent would inevitably place current and future clients at risk of their monies on account being overdrawn; junior solicitors being inadequately trained to spot hallmarks of property hijacks; and thus failing to act in clients' best interests. There would be reputational damage to the profession if the public were aware very experienced solicitors were conducting themselves in such a way with client monies and on client matters.

95. In respect of the level of culpability and harm for the Second Respondent:

95.1. The Second Respondent had been on the Roll for nearly 13 years at the time of these allegations (Allegation 2.1 to 2.3). He was an experienced solicitor.

95.2. In respect of Allegation 2.1, the Second Respondent was the file handler with sole conduct of the matter. He proceeded to make payments out of the Client's £100,000 before he had even sent a client care letter to the Client, and therefore dissipated the Client's £100,000 before obtaining instructions from, and advising, the Client.

95.3. In respect of Allegation 2.2, the Second Respondent was directly responsible for seeking authorisations for transactions which resulted in a £32,000 deficit on the client account. Whilst it is noted that this was partly the result of the systemic failures as described in 97.2 above, the First Respondent ought to have realised he was creating a client account deficit given that he was making a large number of transactions from the client account, in a short space of time, from the limited amount available on account.

95.4. In respect of Allegation 2.3, the Second Respondent was directly responsible for seeking authorisation for a transfer of £50,000 whose involvement in the underlying transaction was unclear, and in any event without any underlying legal transaction in

breach of Rule 14.5. The Second Respondent has not been able to provide a coherent explanation for the transfer.

95.5. The harm on the Silver Street transaction was put right. CA was temporarily out of pocket of some considerable funds. However, CA's money was returned with interest and she has made a witness statement in support of the First and Second Respondents.

95.6. It would cause the public concern to know that there are solicitors who would act on client matters without instruction and who would authorise payments to be made from a significant sum of client money, hundreds of thousands of pounds, on account. There would be reputational damage to the profession if the public were aware experienced solicitors were conducting themselves in such a way with client monies and on client matters.

96. In respect of aggravating features which aggravate the seriousness of the misconduct of the First Respondent:

96.1. He held a senior position of responsibility;

96.2. The conduct continued over a period of time (between 2018-2019) and over three matters;

97. In respect of aggravating features which aggravate the seriousness of the misconduct of the Second Respondent:

97.1. The conduct continued over a period of time (between 2018-2019);

97.2. The Second Respondent has been before the Tribunal in 18 May 2016.

a. The allegations on that previous occasion were about his conduct in relation to a property matter. In summary, it was alleged that he failed to register a form AN1 in accordance with an undertaking given; and that he failed to ensure accurate information was provided to a party to a property transaction.

b. The misconduct took place between late 2013 and 2 April 2015.

c. The First Respondent made early admissions to all the allegations bar one alleged breach of Principle 7 of the 2011 Principles, failing to comply with his legal and regulatory obligations.

d. The Tribunal found all the allegations proved and the Second Respondent was ordered to pay a fine of £5,000 and costs in the Application of £3,452.00

98. In respect of mitigating features, the First Respondent's mitigation is set out at paragraph 86 above, the Second Respondent's mitigation is set out at paragraph 87 above.

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

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Mark Rogers, Partner, Capsticks Solicitors LLP

On behalf of the Solicitors Regulation Authority Limited

Date: 11.01.23

Mr Gurpralad Singh Landa (First Respondent)

Date: 11-01-2023

Mr Kim Singh Landa (Second Respondent)

Date: 11-01-2023