SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12384-2022

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

IFTIKHAR AZIZ Respondent

Before:

Mr R Nicholas (in the chair)
Mr M N Millin
Mr C Childs

Date of Hearing: 16 - 19 January 2023

Appearances

Benjamin Tankel, Counsel, of 39 Essex Chambers, 81 Chancery Lane, London, WC2A 1DD, for the Applicant.

The Respondent represented himself.

JUDGMENT

Allegations

1. The allegations against the Respondent, Mr Iftikhar Aziz, are that whilst in practice as a solicitor (and practising on his own account) at UK & Co Solicitors Limited ("the Firm"):

1.1 Between 31 January 2020 and approximately 10 February 2020, the Respondent:

1.1.1 Allowed approximately £17,906.93 of client money to be withdrawn from client bank account in circumstances in which it was not permitted to be withdrawn, in breach of Rule 5.1 of the SRA Accounts Rules 2019;

PROVED.

1.1.2 Held that client money as physical cash thereby failing to ensure that client money was paid promptly into client bank account, in breach of Rule 2.3 of the SRA Accounts Rules 2019;

PROVED.

1.1.3 Mixed that client money with other types of funds, in breach of Rule 4.1 of the SRA Accounts Rules 2019;

PROVED.

And in doing so he thereby also Principles 2 and 7 of the SRA Principles 2019.

PROVED.

1.2 Between December 2019 and 5 April 2021, even though he was the Firm's COLP and COFA, as well as the Firm's Principal, he failed to inform the SRA about:

1.2.1 The decision of its bank to close its bank accounts;

NOT PROVED.

1.2.2 The reasons for this closure (insofar as the Firm could infer these from its communications with the bank);

NOT PROVED.

1.2.3 The manner in which it handled client funds during the period that it had no access to banking facilities;

PROVED.

And in so doing he breached Rule 7.7 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019 and Principle 2 of the SRA Principles 2019.

PROVED.

1.3 As at 30 November 2019, he failed to maintain accurate books of account, and in so doing he thereby:

1.3.1 Insofar as the conduct took place up to and including 25 November 2019, breached Rule 1.2(f) of the SRA Accounts Rules 2011, and Principle 8 of the SRA Code of Conduct 2011;

PROVED.

1.3.2 Insofar as the conduct took place from 26 November 2019 onwards, breached Rule 8.1 of the SRA Accounts Rules 2019.

PROVED.

1.4 Between the date the Firm was authorised as a Licensed Body on 1 June 2017 and the date of the SRA's intervention on 4 September 2020, he failed to conduct compliant client account reconciliations at least once every 5 weeks, and in doing so he thereby:

1.4.1 Insofar as the conduct took place up to and including 25 November 2019, breached Rule 29.12 of the Solicitors Accounts Rules 2011;

PROVED.

1.4.2 Insofar as the conduct took place from 26 November 2019 onwards, breached Rule 8.3 of the SRA Accounts Rules 2019.

PROVED.

Executive Summary

2. The allegations were borne out of, that the Tribunal found to be, an inept and ill-advised approach to handling client money upon the enforced closure of the Firm's accounts by Barclay's Bank and the Firm's failure to set up new banking services prior to the said closure.

3. The Applicant accepted that there had been no misappropriation of client monies by the Firm in so far as the Firm's records demonstrated at the time of the substantive hearing.

4. The misconduct upon which the allegations were predicated related to Mr Aziz's non-compliance with the Solicitors Accounts Rules and breaches of the SRA Principles enshrined within the Code of Conduct for Solicitors and Firms.

Sanction

5. Mr Aziz was sanctioned to an indefinite Restriction Order which imposed conditions on his practice and is set out fully below.

6. In summary, Mr Aziz may not practise autonomously, may not hold managerial roles within a firm, may not be a partner in a firm and may not handle client money.

Documents

7. The Tribunal considered all of the documents in the electronic substantive hearing bundle which included:

- Applicant's Rule 12 Statement dated 30 September 2022 and Exhibit HVL1.
- Respondent's Answer to the Rule 12 Statement dated 16 November 2022 and supporting documents.
- Applicant's Reply to the Answer dated 30 November 2022.
- Respondent's "Updated Response" dated 8 December 2022.
- Respondent's financial Statement of Means dated 19 December 2022 and supporting documents.
- Respondent's witness statement dated 21 December 2022.
- Applicant's Schedule of Costs as at the date of the substantive hearing dated 6 January 2023.
- Respondent's Skeleton Argument dated 9 January 2023.

Preliminary Issues

8. In his Answer to the Rule 12 Statement, "Updated Response", witness statement and Skeleton Argument, Mr Aziz appeared to admit the factual matrices of the allegations but denied having breached the SRA Accounts Rules ("the Accounts Rules") and SRA Principles of the Code of Conduct ("the Principles") alleged.

9. The Tribunal enquired of him whether that interpretation of his written submissions was correct. Mr Aziz confirmed that he did not dispute the facts set out in evidence but disputed the submissions made by the Applicant that those facts amounted to a breach of the Accounts Rules and/or Principles given his mitigating circumstances at the material time.

Factual Background

10. Mr Aziz was a Registered Foreign Lawyer. He was admitted to the Roll of Solicitors in October 2008 after completing the Qualified Lawyers Transfer Test. He practised on his own account at UK & Co Solicitors from 9 July 2014 to 31 May 2017 when he employed one legally qualified fee-earner, a Mr Rahand Raza.

11. The Firm started trading as a licensed body on 1 June 2017. It operated from one office based in Birmingham. According to Companies House records, it was incorporated on 7 December 2015.

12. Mr R Raza left the Firm on 27 February 2020 having been struck from the Roll of Solicitors by the Tribunal following a conviction of an offence under the Prevention of Social Housing Fraud Act 2013 for unlawfully sub-letting his council-owned property, for which he received a sentence of 12 weeks' imprisonment suspended for two years.

13. Mr R Raza's brother, Mr Faraidon Raza (hereafter referred to as "Mr Raza"), also worked at the Firm as a non-lawyer manager. Mr Raza and Mr Aziz were brothers-in-law.

14. Mr Aziz was the Firm's Compliance Officer for Legal Practice ("COLP") and Compliance Officer for Financial Administration ("COFA").

15. The Firm ordinarily held around 100 live client matters. Approximately 80% of its work was immigration with the remainder comprising of residential conveyancing and straightforward criminal work. The immigration clients ordinarily settled their fees by way of cash payments. Cash deposits were also made into the Firm, and stored in the safe, in respect of conveyancing matters. The practice of the Firm was to store the cash in its safe. As at January 2020, the Firm held around £60,000.00 in cash in the safe.

16. The Applicant received a report in 2019 regarding alleged discrepancies in the Firm's books of account, which led to a Forensic Investigation ("FI") being commissioned in December 2019, resulting in a Forensic Investigation Report ("FIR") dated 16 June 2020.

17. On 3 August 2020, the Firm advised the Applicant in writing that it was closing as it had failed to secure a professional indemnity insurance ("PII").

18. The Applicant intervened into Mr Aziz's practice. He was referred to the Tribunal on 2 September 2020 and his practising certificate for 2021/2022 was issued with the following conditions:

> "1. Mr Aziz is not a manager or owner of any authorised body or an authorised non-SRA firm.
>
> 2. Subject to condition 1, Mr Aziz may act as a solicitor, only as an employee where the role has first been approved by us.
>
> 3. Mr Aziz may not act as a compliance officer for legal practice (COLP) or compliance officer for finance and administration (COFA) for any authorised body, or head of legal practice (HOLP) or head of finance and administration (HOFA) in any authorised non-SRA firm.
>
> 4. Mr Aziz does not hold or receive client money, or act as a signatory to any client or office account or have the power to authorise transfers from any client or office account."

Witnesses

19. The written and oral evidence of 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.

20. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence of Mr Aziz who gave evidence.

21. 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

22. The Applicant was required by Rule 5 of The Solicitors (Disciplinary Proceedings) Rules 2019 to prove the allegations to the standard applicable in civil proceedings (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 Respondent's 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.

23. **Allegation 1.1 - Mishandling client funds**

The Applicant's Case

23.1 The Firm's client and office bank accounts were held at Barclays.

23.2 In email correspondence in November 2019, Barclays raised a series of questions concerning a large number of cash payments used to fund the account**.** Mr Aziz responded on 23 November 2019.

23.3 By letter dated 5 December 2019, Barclays gave the Firm notice that it would close its client and office bank accounts on 3 February 2020 pursuant to section 9, page 32 of its Business Customer Agreement. Mr Tankel submitted that Mr Aziz either knew or ought to have known that the closure was probably related to the concerns raised by the bank in its questions a few weeks earlier.

23.4 As at 30 January 2020, the Barclays client account stood at £19,112.93 in credit.

23.5 The Firm had not opened a new bank account by 31 January 2020, despite having had two months to do so. The explanation provided during the course of the FI was that they had sought to open a new bank account earlier, but that there had been a delay as a result of Experian holding the wrong trading address for the Firm.

23.6 On 31 January 2020:

- £17,906.93 was transferred to Barclays office account.
- £1,206.00 was transferred to Page Nelson Solicitors.

- The Barclays client account therefore stood at £0.00.

- Later on the same date, a payment of £18,101.49 was made from the Barclays office bank account to Mr Raza's personal account.

- Other payments, such as wages and bills, were also paid on the same date.

- Thereafter the balance on office account stood at £0.00.

23.7 Mr Tankel submitted that it therefore appeared, on 31 January 2020, that £17,906.93 of the £18,101.49 transferred to Mr Raza were the funds that had been on client account. It was unclear who physically authorised each of the above payments but based on Mr Aziz's answers during interview Mr Tankel stated that it could be inferred that they were, at the very least, made with his agreement and approval in circumstances where he was responsible as the sole partner and COFA.

23.8 The Firm did not repay clients their money from the funds transferred from client account to Mr Raza. Instead, the Firm repaid clients in cash, from money kept in the office safe. The Applicant accepted that client money was returned by virtue of the "refund slips" dated between 3 and 12 February 2020 which contained the narrative "Refunded monies on our firm's client account, due to bank account closure" and were signed by the client and countersigned by Mr Raza.

23.9 The Firm reopened an office bank account at Metro Bank on 28 February 2020. In March 2020, Mr Raza transferred some of these funds from his personal bank account back into the office bank account.

23.10 Mr Tankel submitted that, in effect, the client funds from the Barclays bank account were notionally "swapped" with the office monies held in physical cash in the Firm's safe, whilst the funds paid into Mr Raza's personal bank account were office monies that he then repaid to the Firm at a later date.

23.11 During interview, Mr Aziz did not deny participating in this plan. Mr Tankel contended that, from the answers he gave, it appeared that Mr Aziz was aware of it and cooperated with it.

SRA Accounts Rules 2019

23.12 **Rule 2.3** provides:

> "You ensure that client money is paid promptly into a client account".

23.13 Mr Tankel submitted that Rule 2.3, in conjunction with Rule 2.2 (limiting the circumstances in which funds may be held other than in a client account) and Rule 5.1 (limiting the circumstances in which funds may be withdrawn from a client account), made plain that client funds must (save as provided for in Rule 2.2) be held on a client bank account.

23.14 Mr Tankel contended that bank accounts have a range of protections and controls that do not apply to physical cash held in a safe. By deciding to "swap", notionally, the funds held in a client bank account for physical cash held in the firm's safe, Mr Aziz deprived those client funds of the relevant safeguards.

23.15 In circumstances where the Firm was provided with two months' notice of the closure of its bank accounts, Mr Aziz ought to have returned the funds directly to the clients from the Barclays account before it was shut down.

23.16 In failing to do so Mr Aziz breached Rule 2.3.

23.17 **Rule 4.1** provides:

> "You keep client money separate from money belonging to the authorised body".

23.18 Mr Aziz asserted that the funds held in the Firm's safe were office monies made up of those of the Firm's fees that had been paid in cash. Mr Tankel submitted that, to the extent that the Firm "swapped" the funds held on the client bank account with the physical cash held in the Firm's safe, those (now) client funds were mixed with the Firm's own funds. To the extent that the client funds were those which were paid into Mr Raza's account, there was a mixing of client funds with Mr Raza's personal funds.

23.19 Mr Tankel submitted that, given the mishandling of client money in the manner set out above, Mr Aziz breached Rule 4.1.

23.20 **Rule 5.1** provides:

> "You only withdraw client money from a client account for the purpose for which it is being held; following receipt of instructions from the client, or the third party for whom the money is held; or on the SRA's prior written authorisation or in prescribed circumstances".

23.21 Mr Tankel submitted that in circumstances where none of the categories set out above applied in respect of the withdrawal of funds from client account following the closure of the Firm's client bank account, Mr Aziz breached Rule 5.1.

SRA Principles 2019

23.22 **Principle 2** provides:

> "… You act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons…"

23.23 Mr Tankel submitted that the public would be alarmed by a Firm whose bank account was closed; which was unable to open a new bank account in time; and which placed funds into the personal bank account of one of the Firm's solicitors in the alternative.

23.24 The Firm did not inform the Applicant of the closure at the time and did not inform the FIO who was conducting an investigation at the material time. Mr Aziz was principal, COFA, and the sole admitted fee earner at the Firm, and as such was solely responsible for the failings.

23.25 Mr Tankel therefore submitted that, by virtue of his conduct, Mr Aziz breached Principle 2.

23.26 **Principle 7** provides:

> "… You act in the best interests of each client…"

23.27 Mr Tankel contended that clients' funds should have been held in a bank account, with the safeguards and protections thereof, at all times. Given the fact that Mr Aziz had been provided with two months' notice of the closure of the Firm's bank account, he had plenty of time to arrange for client funds to be remitted directly from the soon-to-be closed bank account to the clients' individual bank accounts.

23.28 Instead, he arranged for the client funds held on a bank account to be notionally "swapped" for the office monies held in the safe. Mr Tankel submitted that it was not in these clients' best interests for their funds to be held in comparatively insecure form of physical cash in a safe.

23.29 Mr Tankel therefore submitted that, by virtue of his conduct, Mr Aziz breached Principle 7.

<u>The Respondent's Position</u>

23.30 Mr Aziz confirmed that the content of his Answer, "Updated Response", witness statement and skeleton argument were true and he relied upon them. In so doing, Mr Aziz confirmed that he set up the Firm on 9 July 2014. Mr Raza was a non-lawyer SRA approved Manager who held the overall responsibility of the Firm in charge of the accounts and finances. Mr Aziz "also kept [his] eyes on the Firm's finances". No payment could be made from the client account without his knowledge.

23.31 The accounts were managed by the Firm's accountants, who also carried out book keeping duties. The Firm would "send [its] information to the accountants to carry out the reconciliations and complete the accounts".

23.32 Mr Aziz described the suspension of the Firm's accounts by Barclays Bank in November 2019 as "extraordinary circumstances" when it suspended the Firm's accounts and requested a "list of the clients and their matters with invoices". On 5 December 2019, the day after the unannounced forensic investigation commenced at the Firm, Barclays sent notification that it would be closing the Firm's accounts on 2 February 2020. Mr Aziz considered the relatively contemporaneous incidents as related.

23.33 In his witness statement, endorsed in his oral evidence, Mr Aziz stated:

> "… we applied to many banks but were not successful in setting up an account. Most banks were giving appointments far beyond 2nd February 2020 … we were aware of the implications and difficulties of not having a bank account.
>
> Eventually we were able to apply to Metro Bank … bank told us that they had lost the application and we would have to do it again … the Credit Company's report caused the delay beyond 2nd February 2022.
>
> We were facing a dilemma. If we left the money in Barclays, then recovering the money would have been difficult if not impossible but could take months or years…
>
> Under the circumstances, we decided to pay the clients from the cash fees received in the office for the work done. We classed the money in our safe to be the client money before touching the money in the client account. We contacted the clients and took their authorisation to pay them cash out of the office. We made the necessary entries in files and journals of this decision. Once the client money was separated, the money in the client account was treated as office money and transferred into office account and then Mr Raza's personal account as an interim arrangement because this money was then transferred into our Metro account. In understand that in the normal circumstances this would have consulted a misconduct, but I under the theory of necessity it *(sic)* should be exceed because there was no element of dishonesty in it rather a decision in the heat of the moment…"

23.34 During the course of cross examination, Mr Aziz accepted that the Accounts Rules required the client to authorise any withdrawal from the client account. Mr Aziz stated that authorisation was obtained from clients by telephone, on dates that he could not recall during which "clients said keep it [their client money] in the safe". Mr Tankel asked whether attendance notes were made of those conversations to which Mr Aziz replied that there "must've been", that they "must be on file" and that they "made file notes, the client ledger was maintained, whatever happened was recorded and documented".

23.35 Mr Aziz accepted that the Firm had online banking but elected not to execute electronic transfers of funds to clients because "the decision at the time … we thought we need to do it that [cash return] way because of so many transfers it was easier to get clients to come in and give it to them. We spoke to clients, they agreed to collect their money, not all of them had bank accounts [given the nature of their immigration status] … it was a heat of the moment decision…"

23.36 Mr Tankel suggested to Mr Aziz that the client account funds were transferred into Mr Raza's account rather than his because Mr Raza was not on the Roll and Mr Aziz was trying to protect himself. Mr Aziz rejected that suggestion and accepted that he was responsible for Mr Raza.

23.37 Mr Tankel suggested to Mr Aziz that, at the material time, he realised that refunding clients in cash was a breach of the Accounts Rules. Mr Aziz rejected that suggestion and asserted that "we thought we had authority therefore it was not a breach … we

didn't tell clients [about the lack of banking facilities] because we didn't want to worry them/cause concern … we thought under the circumstances we were doing the right thing…"

The Tribunal's Decision

23.38 The Tribunal firstly considered whether the admissions to the factual matrix made by Mr Aziz were properly made. The Tribunal was concerned at the inconsistencies in the answers given by Mr Aziz in interview with the FIO, his correspondence at the material time, his Answer, Amended Answer, witness statement and skeleton argument relied upon in the proceedings. Those inconsistencies could not be reconciled with each other. Nor could they be reconciled with the oral evidence Mr Aziz provided at the substantive hearing. The Tribunal concluded that his admissions to the factual matrix were not properly made.

23.39 The Tribunal therefore proceeded to consider Allegation 1.1 as if it was denied which rendered the burden on the Applicant to prove the same on a balance of probabilities.

23.40 The Tribunal accepted the unchallenged evidence advanced by the Applicant that Mr Aziz (i) practised within the Firm on his own account, (i) was the COLP, (iii) was the COFA and therefore bore the ultimate responsibility in respect of the management, financial or otherwise, for the Firm.

23.41 Mr Aziz accepted the same but in his evidence repeatedly used the term "we" with regards to decisions made and actions undertaken. The Tribunal took that to mean, and Mr Aziz confirmed, that he relied heavily on Mr Raza who was not a qualified solicitor in circumstances where minimal, if any, supervision was undertaken in respect of matters which Mr Aziz bore sole responsibility for.

Allegation 1.1.1

23.42 The Tribunal determined that it was a fundamental tenet known to all solicitors that client money must be kept in a client account; it was common sense. The Tribunal further determined that the "swapping" of monies from the client account into cash amounted to a withdrawal of client monies. The Tribunal rejected Mr Aziz's evidence that the clients whose money was withdrawn provided informed consent. The Tribunal did not consider that the withdrawals made fell within any of the exceptions set out in Rule 5.1(a), (b) or (c) of the Accounts Rules 2019 which set out the circumstances in which withdrawals from the client account may be made.

23.43 Mr Aziz was strictly liable for any breach of the Accounts Rules given the positions he held within the Firm. The Tribunal determined that Mr Aziz's conduct breached Rule 5.1 and therefore found Allegation 1.1.1 proved on a balance of probabilities.

Allegation 1.1.2

23.44 The Tribunal noted the unchallenged evidence, which was confirmed by Mr Aziz in his oral evidence, that the monies withdrawn from the client account were held in the Firm's safe and purportedly returned to the clients in cash.

23.45 The Tribunal was therefore satisfied on a balance of probabilities that Mr Aziz, held the withdrawn monies in cash, in the Firm's safe and failed to pay it into a client bank account promptly, in circumstances where he was not permitted to do so.

23.46 Mr Aziz was strictly liable for any breach of the Accounts Rules given the positions he held within the Firm. The Tribunal determined that Mr Aziz's conduct breached Rule 2.3 and therefore found Allegation 1.1.2 proved on a balance of probabilities.

Allegation 1.1.3

23.47 Given its findings in relation to Allegation 1.1.2, it was plain to the Tribunal that the client monies kept in the Firm's safe would have invariably been mixed with other types of funds. It was not readily discernible to the Tribunal how, if at all, any delineation between client money, office money and/or other types of funds was made in circumstances where the Firm held no bank accounts whatsoever.

23.48 Mr Aziz was strictly liable for any breach of the Accounts Rules given the positions he held within the Firm. The Tribunal determined that Mr Aziz's conduct breached Rule 4.1 and therefore found Allegation 1.1.3 proved on a balance of probabilities.

Principle Breaches

23.49 **Principle 2** required Mr Aziz to "act in a way which upheld public trust and confidence in the solicitors' profession and in legal services provided by authorised bodies." The Tribunal determined that the public was entitled to believe that its money, when provided to a solicitor for a legal transaction, would be treated properly. The Accounts Rules seek to ensure that the public is protected in that regard.

23.50 The Tribunal therefore found, that by virtue of his non-compliance with Rules 2.3, 4.1 and 5.1, Mr Aziz plainly contravened Principle 2.

23.51 **Principle 7** required Mr Aziz to "act in the best interests of each client". The Tribunal determined that Mr Aziz's inability to hold client monies securely, with all of the safeguards provided by banking facilities, was not in the best interests of the client and therefore constituted a breach of Principle 7. That breach was exacerbated by Mr Aziz's conscious decision to return the client monies in cash. Expecting clients to attend the Firm and be physically given cash, in one instance amounting to £9,000.00 in respect of one client, could not be viewed as in those clients' best interests.

23.52 The Tribunal therefore found, that by virtue of his non-compliance with Rules 2.3, 4.1 and 5.1, Mr Aziz plainly contravened Principle 7.

24. **Allegation 1.2 - Failures pertaining to the closure of the Firm's bank accounts**

<u>The Applicant's Case</u>

24.1 The FI commenced by way of an opening meeting between the FIO, Mr Aziz and Mr Raza on 4 December 2019 and culminated in a report dated 16 June 2020. On 5 December 2019, Barclays notified Mr Aziz that it intended to close the Firm's client and office accounts on 3 February 2020. Despite the fact that the investigation was

ongoing when Mr Aziz received the notice of closure from Barclays, and despite the fact that the FIO was on site, investigating the Firm's books of accounts on 31 January 2020, when the accounts were closed, Mr Aziz did not notify the Applicant of the same.

24.2 On 6 April 2020, Mr Aziz notified the FIO about the closure of the Firm's accounts for the first time, more than two months post occurrence, by way of email.

24.3 Mr Tankel submitted that in circumstances where the FIO was present carrying out an investigation at the very time a notice was received, Mr Aziz should have promptly disclosed the same. Mr Aziz should have been upfront and transparent about the reasons the accounts had been closed. Mr Aziz should have discussed with the FIO his proposals for protecting the client money they continued to hold. Mr Aziz should have provided a clear audit trail showing that monies had been returned to clients. Mr Aziz failed to do so, for a period of over four months, despite the fact that a forensic investigation was ongoing at the material time. Conversely, Mr Aziz decided, without discussing matters with the FIO, to deal with remaining client monies in the unorthodox fashion set out above.

24.4 On 5 May 2020 the FIO served a production notice, pursuant to Section 44B of the Solicitors Act 1973, requesting the Firm's correspondence with the Bank concerning the closure of its accounts**.**

Code of Conduct for Solicitors 2019

24.5 **Rule 7.7** provides:

> "… you report promptly to the SRA or another approved regulator, as appropriate, any facts or matters that you reasonably believe are capable of amounting to a serious breach of their regulatory arrangements by any person regulated by them (including you) …"

24.6 A definition of "Regulatory arrangements" can be found in section 21 of the Legal Services Act 2007 which provides:

> "…
>
> (1) In this Act references to the "regulatory arrangements" of a body are to—
>
> (a) its arrangements for authorising persons to carry on reserved legal activities,
> (b) its arrangements (if any) for authorising persons to provide immigration advice or immigration services,
> (c) its practice rules,
> (d) its conduct rules,
> (e) its disciplinary arrangements in relation to regulated persons (including its discipline rules),
> (f) its qualification regulations,
> (g) its indemnification arrangements,

(h) its compensation arrangements,
(i) any of its other rules or regulations (however they may be described), and any other arrangements, which apply to or in relation to regulated persons, other than those made for the purposes of any function the body has to represent or promote the interests of persons regulated by it, and
(j) its licensing rules (if any), so far as not within paragraphs (a) to (i)…"

24.7 Mr Tankel averred that the manner in which the Firm handled client funds following the closure of its bank account was capable of amounting to a serious breach of the Accounts Rules and so should have been reported to the Applicant. That requirement was heightened in circumstances where (a) the Firm's bank account had been closed further to Barclays having raised queries in relation to money laundering, and (b) when a forensic investigation was in progress. Moreover, Mr Aziz had an additional reporting obligation as COFA.

24.8 Mr Tankel stated that, rather than complying with the duty incumbent on him to report facts or matters to the Applicant which were capable of amounting to a serious regulatory breach, Mr Aziz elected to participate in the unorthodox plan for dealing with the client funds during the period that the Firm was without a bank account.

SRA Principles 2019

24.9 **Principle 2** required Mr Aziz to conduct himself in a manner that maintained public confidence in him and in the provision of legal services. Mr Tankel submitted that the public was entitled to expect the experienced principal of a firm, who was also COFA and the only admitted fee earner at the material time, to report to the Applicant the fact that its client and office accounts had been closed by the bank particularly given that a forensic investigation was underway.

24.10 In failing to do so, Mr Tankel submitted that Mr Aziz breached Principle 2.

<u>The Respondent's Position</u>

24.11 Mr Aziz confirmed that the content of his Answer, "Updated Response", witness statement and skeleton argument were true and he relied upon them. In so doing he accepted that he was the Firm's COLP, COFA and Principal at all material times.

24.12 In his witness statement, endorsed in his oral evidence, Mr Aziz stated:

> "… the coincidence of the FIO starting her investigation on 4th December 2019 and *(sic)* bank letter being dated 5th December 2019 strengthened my belief that the SRA know everything and so does the FIO. [Mr Raza] was mostly dealing with the FIO so I did not consider it necessary to discuss this with her as there were so many other queries and questions we had to answer…

> During the period we did not have the account, we did not receive the client money., our operations had been slowed down … we only received our fees and issued invoices, made full records of receipts …
>
> We only mentioned to F I *(sic)* Officer about the closure when she enquired about the Metro Bank statements, she saw. We explained to the FIO about the reasons for closure that there was no obvious reason given but that the bank has the right to close a business account. But obviously the FIO, should have known that the bank was concerned about the cash deposits we made which she herself was investigating…
>
> There is no evidence to suggest that I wished to conceal the reasons or has *(sic)* reasons to conceal the reasons as suggested…
>
> Even if my suspicion about SRA and Bank were *(sic)* cooperating in his *(sic)* case was mistaken, I wonder if every law firm will voluntarily notify the SRA if it receives a letter in similar terms. The termination letter from the Bank did not raise issues which would put me on notice to bring this to the attention or to disclose this to the FIO. It is also noted that the termination letter from the Bank is dated the day after the initial meeting. The respondent provided all necessary information to the SRA as requested…"

24.13 During the course of cross examination Mr Aziz maintained that there was nothing nefarious in his failure to inform the SRA about the Firm's bank accounts in circumstances where he believed that they were already aware.

The Tribunal's Decision

24.14 The Tribunal firstly considered whether the admissions to the factual matrix made by Mr Aziz were properly made. The Tribunal was concerned at the inconsistencies in the answers given by Mr Aziz in interview with the FIO, his correspondence at the material time, his Answer, Amended Answer, witness statement and skeleton argument relied upon in the proceedings. Those inconsistencies could not be reconciled with each other. Nor could they be reconciled with the oral evidence Mr Aziz provided at the substantive hearing. The Tribunal concluded that his admissions to the factual matrix were not properly made. In so doing, the Tribunal proceeded to consider Allegation 1.2 as if it was denied with the burden on the Applicant to prove the same on a balance of probabilities.

Allegation 1.2.1 and 1.2.2

24.15 The Tribunal noted the unchallenged evidence, which was confirmed by Mr Aziz in his oral evidence, that he did not notify the SRA about the contents of the Barclays letter dated 5 December 2019 regarding the closure of the Firm's bank accounts.

24.16 The Tribunal considered the assertions made by Mr Aziz that he essentially did not do so because he thought that they already knew. It was coincidental that the unannounced FI visit had commenced the previous day. It was coincidental that the FIO sought information regarding the same files that Barclays had sought throughout November 2019. The Tribunal carefully considered the obligation imposed by virtue

of Rule 7.7 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019, namely that:

> "You report promptly to the SRA or another approved regulator, as appropriate, any facts or matters that you reasonably believe *(emphasis added)* are capable of amounting to a serious breach of their regulatory arrangements by any person regulated by them (including you)."

24.17 The Tribunal accepted Mr Aziz's evidence that he essentially assumed that the Applicant's unannounced FI visit was predicated on having been "tipped off" by Barclays Bank. However misconceived his assumption was, the Tribunal accepted that his belief in that regard, at the material time, was that the Applicant was already aware of Barclays' decision to close the Firm's bank accounts and the reasons, so far as they were discernible, for so doing. The Tribunal was not satisfied, on the evidence before it, that Mr Aziz breached Rule 7.7 of the SRA Accounts Rules 2019 and therefore found Allegations 1.1.1 and 1.1.2 not proved on a balance of probabilities.

Allegation 1.2.3

24.18 Notwithstanding the findings in respect of Allegations 1.2.1 and 1.2.2, the Tribunal considered that Rule 7.7 was an ongoing duty. It was incumbent upon Mr Aziz to comply with the same. The fact that an investigation was ongoing, and access was being given to all of the Firm's files, did not vitiate the need for Mr Aziz to be open and transparent with regards to how client funds were managed between 3 February 2020 (closure of Barclays accounts) and 28 February 2020 (opening of Metro Bank accounts). Mr Aziz first notified the Applicant of the manner in which the Firm handled client funds during that period in an email dated 6 April 2020. Prior to that date, neither the FIO nor the Applicant itself were made aware that client monies were being held in cash and returned to clients in person.

24.19 The Tribunal therefore found him to have acted in breach of Rule 7.7 of the SRA Accounts Rules 2019. The Tribunal further found that in so doing he also breached Principle 2 in that the public was entitled to expect solicitors to report matters which are capable of amounting to a serious breach of their regulatory requirements.

25. **Allegation 1.3 - Failures pertaining to the Firm's Books of Account**

The Applicant's Case

25.1 Mr Aziz, as sole partner and COFA, was responsible for the Firm's accounts. The Firm's books of account were not in compliance with the SRA Accounts Rules 2011 or 2019, in that:

- Five-weekly client account reconciliations were not being prepared.
- Client account entries were never written up using compliant software, but rather on Excel spreadsheets.
- According to a report by Mr Naeem Shareef of Shareef & Co, no audits were carried out during the period including the Accountant's Report Form AR1. If any

such reports were completed then, based on the accounts rules breaches set out herein, they ought to have been qualified and provided to the SRA within six months of the end of each accounting period. No such qualified reports (or any reports) were provided to the Applicant.

- The Firm neither saw nor signed books of account and was unable to provide any upon request. At a meeting with the FIO on 11 December 2019, Mr Aziz stated that he had not seen accounts since 2017/2018.

- The Firm did not maintain a list of client balances with the resultant effect that three-way reconciliation could not be prepared.

- Client matter ledgers were not reliable.

Books of account as at 30 November 2019

25.2 The FIO used the extraction date of 30 November 2019.

25.3 On 4 December 2019, the Firm provided a bank statement showing that, as at 30 November 2019, the Firm held £6,909.69 on the client account.

25.4 On 17 December 2019, the Firm produced a "client account reconciliation" showing that, as at 30 November 2019, the Firm held five client balances totalling £1,775.00. Mr Aziz explained that the balance of the funds held on client account belonged to the Firm. He accepted that was not compliant with the Accounts Rules.

25.5 On 14 January 2020, the Firm produced a "Live Balances" document showing that, as at 30 November 2019, the Firm held funds in three client matters in the sum of £2,215.00. That could not be reconciled with either of the two previous figures provided.

25.6 On 21 May 2020, the Firm produced a cashbook which again showed that £6,909.69 was held in the client account.

25.7 As part of her investigation, the FIO had cause to consider two client ledgers relating to matters in respect of which Mr Raza was acting as client namely (a) his proposed purchase of properties at 52 Ashville Avenue and 63 New Street. The client matter ledger for Mr Raza's purchase of 52 Ashville Avenue recorded a balance of £11,076.00 as at 30 November 2019. That balance was not included in any of the figures set out above.

25.8 In interview, Mr Raza said that the ledger was incorrect. The client matter ledger for Mr Raza's purchase of 63 New Street recorded a balance of £281.10 as at 30 November 2019. That balance was not included in either the client account reconciliation or the "Live Balances" list, but it did appear on a later list of balances as at 31 January 2020.

25.9 The Firm did not keep a breaches register because, Mr Aziz and Mr Raza, were of the view that there was nothing to write in it.

25.10 As a result of the identified discrepancies, the FIO was unable to express an opinion on the accuracy of the books of account produced or to calculate the full extent of the Firm's liabilities to its clients.

25.11 During interview, Mr Aziz:

- Explained that responsibility for accounting/bookkeeping was delegated to Mr Raza.

- Blamed the accountants, whose job he said it was to maintain the books.

- Demonstrated an almost total lack of understanding as to what was required by way of compliant books of account;

  "…

  [FIO] Can you say what records you were maintaining?

  [IA] We were like maintaining some invoices. Client ledgers but the way we were doing it. And we were erm, erm sort of that we, we should keep some receipts for clients, how much money we received, the work category and all that was there. Each client we were looking at ok how much money which sort of erm and which had client money or office money. But erm looking at the way you think that wasn't really there.

  [FIO] And on a client account, what records were your bookkeepers maintaining?

  [IA] From the client account level we were providing them all this information, whatever was coming on ledgers and erm our cash and everything. So, they were erm sort of erm, erm cash books. But they were – I don't know how they were doing them. They were accountants erm..."

- Since the start of the Firm in 2015, he had never prepared or signed a month end client account reconciliation.

25.12 Further into the interview, Mr Raza explained that he created the client ledgers but the accountants were responsible for updating them; and the accountants were responsible for preparing client reconciliations. In light of the foregoing, both Mr Aziz and Mr Raza sought consistently during interview to blame the accountants for any discrepancies in the Firm's books of account, but (i) neither have explained what the accountants were supposed to do and what they got wrong; and (ii) in any event, responsibility for maintaining correct books of account lay with the Firm, not with the accountants.

SRA Accounts Rules 2011 and 2019

25.13 **Rule 1.2(f)** of the 2011 Rules provides:

> "… you must…keep proper accounting records to show accurately the position with regard to the money held for each client and trust..."

25.14 **Rule 8.1** of the 2019 Rules provides:

> "… you keep and maintain accurate, contemporaneous, and chronological records..."

25.15 Mr Tankel submitted that Rules 1.2(f) and 8.1 were rules of strict liability and given that Mr Aziz failed to keep proper accounting records, he breached the same.

SRA Principles 2011

25.16 **Principle 8** provides:

> "… you must 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…"

25.17 Mr Aziz was the Firm's principal, COFA and, for at least part of the material time was the only qualified fee-earner. He had a high level of responsibility for ensuring that the Firm's accounts were properly recorded. He failed to do so. Mr Tankel submitted that without reliable books of account, it was impossible to be certain whether the Firm held sufficient funds on client account to meet its liabilities whether in respect of individual clients or overall.

25.18 Mr Tankel therefore submitted that, by virtue of his conduct, Mr Aziz breached Principle 8.

<u>The Respondent's Position</u>

25.19 Mr Aziz confirmed that the content of his Answer, "Updated Response", witness statement and skeleton argument were true and he relied upon them.

25.20 In his witness statement, endorsed in his oral evidence, Mr Aziz stated:

> "… the Firm kept all accounting records, such as invoices, bank statements customer receipts and journals. Our accounts were completed by our external accountants who were our book keepers as well. Generally, there were no problems except that they were very busy *(sic)* Firm and probably lacked in expertise. Their delayed responses were alarming us for which we had started looking for other accountants…When the SRA investigation started the accountants despite possessing all the information were not entertaining the FIO's frequent demands. In the office we kept our files, and all the financial information was on files and our client ledgers were on spreadsheets…
>
> We used to send our information to the accountants to carry out the reconciliations and complete the accounts…

> All of the moneys *(sic)* received into client account were noted on the files receipts were issued against the receipts. All this record was present in the relevant client files. For further bookkeeping purposes and reconciliation of accounts the information was passed on to the accountants, therefore the reconciliations were not readily available at the time the FI Officer requested. However, all the reconciliations were later available and there are no discrepancies as regards the client account … the forensic report by Shareef & Co (is part of the applicant's bundle) proves there was no big issues with our client account and that no client money was missing, misappropriated or misused…"

25.21 During the course of cross examination Mr Aziz accepted that Mr Raza was, (a) responsible for managing the accounts, (b) not on the Roll but was studying to be a solicitor, (c) had no previous bookkeeping experience, (d) was not provided with any training from Mr Aziz, (e) was not taught by him how to keep books and (f) "was mostly dealing with the accounts".

25.22 Mr Aziz asserted that Mr Raza "learnt on the job" and accepted that he "wasn't supervising him day to day [as Mr Raza] wasn't a child … he was ok and not really that bad... if he was that bad then where did we get all of the information to give to the accountant?.."

The Tribunal's Decision

25.23 The Tribunal firstly considered whether the admissions to the factual matrix made by Mr Aziz were properly made. The Tribunal was concerned at the inconsistencies in the answers given by Mr Aziz in interview with the FIO, his correspondence at the material time, his Answer, Amended Answer, witness statement and skeleton argument relied upon in the proceedings. Those inconsistencies could not be reconciled with each other. Nor could they be reconciled with the oral evidence Mr Aziz provided at the substantive hearing. The Tribunal therefore concluded that his admissions to the factual matrix were not properly made. In so doing, the Tribunal proceeded to consider Allegation 1.3 as if it was denied with the burden on the Applicant to prove the same on a balance of probabilities.

Allegation 1.3.1 and 1.3.2

25.24 The Tribunal noted that at the material time, the misconduct alleged was governed by the SRA Accounts Rules 2011 and SRA Accounts Rules 2019. The Tribunal accepted that the requirements of Rule 1.2(f) of the 2011 Rules and Rule 8.1 of the 2019 Rules were fundamentally the same. Both imposed a duty on Mr Aziz to keep and maintain proper accounting records in a manner which accurately set out the position regarding client monies.

25.25 It was plain on the unchallenged evidence before it that the maintenance of the books of account was delegated by Mr Aziz to Mr Raza and the Firm's accountants. That did not abrogate responsibility for compliance with the Accounts Rules remaining firmly on Mr Aziz. Mr Aziz, whilst accepting that he was ultimately responsible, consistently sought to apportion blame onto Mr Raza and the Firm's accountants. The Tribunal rejected his assertions in that regard.

25.26 Mr Aziz relied upon the Shareef report which stated:

> "§11 … the client account entries were never written up using software designed for solicitors (rather on spreadsheet) and secondly, there was no evidence available that the client account was reconciled at least every 5 weeks and thirdly, no audits were carried out during the whole period including the Accountant's Report Form …"

25.27 The Tribunal further noted the following emails from Mr Shareef to Mr Raza:

[22 December 2019]

> "… Please note in order to be clear about the scope of work that you will undertake I just wanted to make sure that your audited work will cover redoing our firm's accounts (including monthly reconciliation) for the period of 01/06/2017 to the date of intervention on 4th September 2020…"

[24 December 2019]

> "… Thank you for the excel files. I have reviewed them all in detail, and whilst they are useful as they show the nature of the payments and receipts, unfortunately, this is not what I, or indeed the SRA, would describe as a 'client reconciliation', in fact its not even close to what you should be producing as part of the reconciliation. The main problem is there is not a list of client ledger balances to compare against the bank statement. This means there is no historical ledger statements to review and correct if need be.
>
> I have seen enough to tell me your former accountants were not experienced to prepare your books and records that meet the rules set out in the Solicitor's Accounts Rules. The excel files have no references on each receipt/payment, which is an absolute essential requirement, otherwise, we have no idea where to post them…
>
> … it is now obvious that no one understands the Solicitor's Accounts Rules, so it makes no sense for you to enter the transactions, only for us to repair all the work later at a higher cost…"

25.28 Given the findings set out above, the Tribunal determined that Mr Aziz failed to maintain accurate books of account and therefore breached Rule 1.2(f) of the SRA Accounts Rules 2011 and Rule 8.1 of the SRA Accounts Rules 2019. The Tribunal further found that in so doing he also breached Principle 8 of the SRA Code of Conduct 2011 in that he did not run the Firm "in accordance with proper governance and sound financial and risk management principles."

26. **Allegation 1.4 - Failure to conduct compliant client account reconciliations**

<u>The Applicant's Case</u>

26.1 Mr Tankel relied upon the submissions set out at §25.1 - §25.12 above.

SRA Accounts Rules 2011 and 2019

26.2 **Rule 29.12** of the 2011 Rules provides:

> "…You must, at least once every 5 weeks:
>
> a) compare the balance on the client cash Rules 2011 account(s) with the balances shown on the statements and passbooks (after allowing for all unpresented items) of all general client accounts and separate designated client accounts, and or any account which is not a client account but in which you hold client money under rule 15.1(a) or rule 16.1(d), and any client money held by you in cash; and
>
> b) as at the same date prepare a listing of all the balances shown by the client ledger accounts of the liabilities to clients (and other persons, and trusts) and compare the total of those balances with the balance on the client cash account; and also
>
> c) prepare a reconciliation statement; this statement must show the cause of the difference, if any, shown by each of the above comparisons…"

26.3 **Rule 8.3** of the 2019 Rules provides:

> "… You complete at least every five weeks, for all client accounts held or operated by you, a 2019 reconciliation of the bank or building society statement balance with the cash book balance and the client ledger total, a record of which must be signed off by the COFA or a manager of the firm. You should promptly investigate and resolve any differences shown by the reconciliation…"

26.4 Mr Tankel submitted that the Firm never carried out such reconciliations. Despite being COFA, Mr Aziz appeared to have been unaware of the rules regarding five weekly reconciliations. Given that Rules 29.1 and 8.3 were strict liability rules, Mr Tankel submitted that, by virtue of his conduct, Mr Aziz breached the same.

<u>The Respondent's Position</u>

26.5 Mr Aziz confirmed that the content of his Answer, "Updated Response", witness statement and skeleton argument were true and he relied upon them.

26.6 In his witness statement, endorsed in his oral evidence, Mr Aziz stated:

> "… When the FIO asked me had I done any reconciliations, I said no. Here I meant that I don't do reconciliations rather our accountants do for us. But she interpreted *(sic)* in a wrong way. I accept that I should have the reconciliations in the office as well but until the my *(sic)* accounts manager mr *(sic)* Raza had kept them with the accountant.
>
> I believe that rules *<u>29.12</u>* and Rule 8.3 were not breached at the scale the FIO has claimed, There may have been few reconciliations missing at the time the

FIO was investigating because the accountants were not taking the demands of the FIO as serious as we were…"

26.7 During the course of cross examination Mr Aziz accepted that (a) he did not undertake any reconciliations himself, (b) the Firm's procedure of "internal reconciliations" were the "journals" that were prepared by Mr Raza, (c) the "journals" were then sent to the accountants and (d) the accountants undertook the reconciliations for the Firm.

26.8 Mr Tankel questioned Mr Aziz on his response to the FIO during interview in which he stated that he hadn't seen a reconciliation since 2015. Mr Aziz stated that what he "meant was that the accountants were doing it not that I hadn't seen them, I just didn't do them."

26.9 Mr Tankel asked Mr Aziz whether he routinely looked at the internal ledgers prepared by Mr Raza, to which he replied, "when I needed to".

26.10 Mr Tankel asked Mr Aziz whether he was familiar with how Mr Raza completed client ledgers, to which he replied, "I think so".

26.11 Mr Tankel asked Mr Aziz why every ledger entry referred to every deposit on client ledgers as "Cash – on account of costs", to which he replied that, "it could have been the costs for purchasing the property. these are the sort of mistakes [that happen]".

26.12 Mr Tankel asked Mr Aziz whether he noted the mistakes at the material time, to which he replied, "no". Mr Tankel asked Mr Aziz what systems were in place to pick up such mistakes, to which he replied, "to be honest so long as the money was in the right account and some notes were made on the file and we knew what the money was for, it was not an issue".

26.13 Mr Aziz accepted, with regards to Mr Raza, that he "shouldn't have written cash on account of costs, he [Mr Raza] got into the habit of writing it" and that it was "difficult to see" the Firm's actual costs on the ledgers.

26.14 With regards to the Shareef Report upon which Mr Aziz relied, and in so doing accepted that Mr Shareef stated:

"…

§11 … the client account entries were never written up using software designed for solicitors (rather on spreadsheet) and secondly, there was no evidence available that the client account was reconciled at least every 5 weeks and thirdly, no audits were carried out during the whole period including the Accountant's Report Form commonly known as AR1. I would expect the client ledger balances at the end of January 2020 to resemble the transactions made at the end of January 2020…

§13 … among the documents reviewed I did not see a single accounting report or reconciliation produced by previous accountants…"

The Tribunal's Decision

26.15 The Tribunal firstly considered whether the admissions to the factual matrix made by Mr Aziz were properly made. The Tribunal was concerned at the inconsistencies in the answers given by Mr Aziz in interview with the FIO, his correspondence at the material time, his Answer, Amended Answer, witness statement and skeleton argument relied upon in the proceedings. Those inconsistencies could not be reconciled with each other. Nor could they be reconciled with the oral evidence Mr Aziz provided at the substantive hearing. The Tribunal therefore concluded that his admissions to the factual matrix were not properly made. In so doing, the Tribunal proceeded to consider Allegation 1.4 as if it was denied with the burden on the Applicant to prove the same on a balance of probabilities.

26.16 The Tribunal noted that at the material time, the misconduct alleged was governed by the SRA Accounts Rules 2011 and SRA Accounts Rules 2019. The Tribunal accepted that the requirements of Rule 29.12 of the 2011 Rules and Rule 8.1 of the 2019 Rules were fundamentally the same. Both imposed a duty on Mr Aziz to conduct reconciliations on the client account "at least every five weeks".

26.17 For the reasons set out above in conjunction with the findings at §25.25 - §25.27, the Tribunal found that Mr Aziz failed to do so and therefore breached Rules 29.12 of the SRA Accounts Rules 2011 and Rule 8.1 of the SRA Accounts Rules 2019.

Previous Disciplinary Matters

27. None.

Mitigation

28. Mr Aziz accepted that sanction was a matter for the Tribunal but asserted that he had "suffered enough". He contended that he had been suspended from practice for 2.5 years [referring to the conditions imposed on his practising certificate] for an "offence that [wasn't] so big to be punished at that level". Mr Aziz urged the Tribunal to consider his Statement of Means and associated documents when considering sanction.

Sanction

29. The Tribunal referred to its Guidance Note on Sanctions (Tenth Edition: June 2022) when considering sanction.

30. With regards to culpability, the Tribunal determined that Mr Aziz was motivated at the material time by his mistaken belief that he was acting in the best interests of the clients given the circumstances. Further, he was motivated by the most convenient solution for the Firm. His misconduct was not spontaneous, it was ill-conceived but conscious decisions were made to behave in the manner that he did. He was in direct control of and responsible for all matters pertaining to the Firm given the positions he held. At the material time he was experienced having been admitted to the Roll of Solicitors in 2008 having practised in another jurisdiction for an unknown period of

time prior to that. The Tribunal concluded that Mr Aziz was highly culpable for the misconduct found.

31. With regards to harm, the Tribunal were satisfied that clients did not appear to have been affected beyond any inconvenience caused by collecting their monies in cash from the Firm and the associated risk to them in so doing given the amounts involved. However, the Tribunal considered the harm to the reputation to the solicitors profession as a consequence of the misconduct to be profound given the cavalier approach taken by Mr Aziz in his handling of client monies.

32. The Tribunal determined that the misconduct found was aggravated by the fact that (a) it was deliberate, (b) it was calculated, (c) it was repeated over a significant period of time, (d) Mr Aziz knew or ought to have known that his conduct amounted to material breaches of the Accounts Rules and (e) Mr Aziz demonstrably lacked insight in that he sought to blame others for his failings throughout the proceedings.

33. The misconduct was somewhat mitigated by the fact that Mr Aziz attempted to co-operate with the Applicant throughout the investigation but given the obfuscation regarding the books of account, was limited in so doing.

34. Given the fundamental failings of Mr Aziz in respect of which no insight was shown by him, the Tribunal considered that he continued to pose a risk to the public. In those circumstances, the imposition of no Order or a reprimand was neither appropriate nor proportionate. The Tribunal considered the imposition of a financial penalty but in light of Mr Aziz's limited means, determined that to do so was not in the public interest.

35. The purpose of sanction was to meet the overarching public interest which comprised of (a) the need to protect the public from harm, (b) the declaration and upholding of proper standards within the profession and (c) maintenance of public confidence in the regulatory framework. In order to meet the public interest and to avoid any risk of repetition, the Tribunal determined that restrictions in the form of conditions upon the way in which Mr Aziz continued to practise was the appropriate sanction.

36. The Tribunal therefore imposed a Restriction Order of indefinite duration, with liberty to apply, in the terms set out below.

Costs

<u>The Applicant's Submissions</u>

37. Mr Tankel applied for costs in the sum of £73,047.00 which comprised of £31,678.00 with regards to the forensic investigation and £41,400.00 in respect of Capsticks' fees. Mr Tankel conceded that the substantive hearing had taken two days as opposed to the estimated four days but contended that in and of itself did not warrant a reduction. Mr Tankel invited the Tribunal to consider the property owned by Mr Aziz absent any evidence as to the equity contained therein to support the contention that there was no evidence of impecuniosity.

The Respondent's Submissions

38. Mr Aziz referred the Tribunal to his Statement of Means and associated documents which showed a surplus of £25.00 per month after all of his outgoings were met. Mr Aziz stated that he resided with his wife, the property was in her name and she met all of the expenses in that regard. Mr Aziz held a modest amount of savings of around £3,000.00.

39. With regards the property, he stated that he purchased the same in 2015 for £120,000.00 and marketed it for sale in 2015 for £80,000.00 - £90,000.00. He did not ultimately sell the property which was, at the time of the substantive hearing, occupied by a tenant.

40. Mr Aziz averred that he did not have a recent valuation but assessed the same to be in the region of £150,000.00. There was £101,000.00 remaining on the mortgage.

The Tribunal's Decision

41. The Tribunal carefully considered the application and the submissions made. Given its findings in relation to the state of disarray in record keeping at the Firm, the Tribunal accepted that the time spent by the FIO and Capsticks was both reasonable and proportionate.

42. However, the Tribunal took care to consider the financial position of Mr Aziz. The Tribunal did not accept that he had been "suspended from practice for 2.5 years". Rather he had conditions attached to his practising certificate such that he had been unable to obtain work for 2.5 years. The Tribunal inferred that was by reason of the condition that he was only permitted to do so in employment approved by the Applicant. Whilst that was not the same as being suspended from practice, the Tribunal accepted that it had resulted in Mr Aziz receiving no income during that period. There was nothing preventing Mr Aziz from having sought approval, it was unclear whether or not he had, or having sought employment outside of the legal system. The fact remained that he appeared before the Tribunal with limited means and one asset which held some equity.

43. In light of all attendant circumstances, the Tribunal granted the application for costs but reduced the same to £25,000.00.

Statement of Full Order

1. The Tribunal Ordered that the Respondent, IFTIKHAR AZIZ, Solicitor, be subject to the conditions set out in paragraph 2 below and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £25,000.00.

2. The Respondent shall be subject to conditions imposed indefinitely by the Tribunal as follows:

2.1 The Respondent may not:

2.1.1 Practise as a sole practitioner or sole manager or sole owner of an authorised or recognised body or as a freelance solicitor;

2.1.2 Be a partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS) or other authorised or recognised body;

2.1.3 Be a Head of Legal Practice/Compliance Officer for Legal Practice or a Head of Finance and Administration/Compliance Officer for Finance and Administration;

2.1.4 Hold client money;

2.1.5 Be a signatory on any client account.

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

Dated this 17th day of February 2023
On behalf of the Tribunal

JUDGMENT FILED WITH THE LAW SOCIETY
17 FEB 2023

R Nicholas
Chair

/