SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12432-2023

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

Respondent

RICHARD MICHAEL COHEN

Before:

Mr R Nicholas (in the Chair)
Ms F Kyriacou
Mrs L McMahon-Hathway

Date of Hearing: 26 May 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 Respondent are that, whilst in practice as a partner at Rudds Solicitors ("the Firm"):

1.1 Between November 2018 and May 2019 the Respondent made statements to a client, Client A, which were untrue and were likely to mislead him as to the progress of legal proceedings, and which he knew, or ought to have known, were liable to have this effect at the time he made them in that he:

1.1.1 on 7 November 2018 informed Client A that he had sent notice of an injunction to another party's solicitors when he knew or ought to have known that he had not;

1.1.2 on 21 December 2018 provided a paragraph for Client A to use in correspondence with his local authority which stated that he was in the process of obtaining an injunction and declaration from the court when he knew or ought to have known that no application had been issued or commenced;

1.1.3 on 17 May 2019, informed Client A that a hearing date had been set for 28 June 2019 when he knew or ought to have known that no hearing date had been set.

In so doing he breached any or all of Principles 2 and 6 of the SRA Principles 2011;

1.2 Between June 2017 and January 2020, the Respondent made statements to his clients, Client B and Client C, which were untrue and likely to mislead them as to the process of obtaining a lease extension on their behalf, and which he knew, or ought to have known, were liable to have this effect at the time he made them in that he:

1.2.1 on 5 June 2017, confirmed to Client B and Client C that he had made an application to the Tribunal when he knew or ought to have known that he had not;

1.2.2 on 15 September 2017, informed Client B and Client C that a date had been set for mediation when he knew or ought to have known that it had not;

1.2.3 on 22 September 2017, informed Client B and Client C that the mediation had taken place when he knew or ought to have known that it had not;

1.2.4 on 4 May 2018, informed Client B and Client C that a Tribunal hearing had been scheduled for 19 June 2018 when he knew or ought to have known that it had not;

1.2.5 on 18 June 2018, informed Client B and Client C that the hearing he claimed had been scheduled for 19 June 2018 had been adjourned when he knew or ought to have known that no such hearing had been scheduled or had been adjourned;

1.2.6 on 23 January 2019, informed Client B and Client C that a new hearing date had been set for 30 April 2019 when he knew or ought to have known that it had not;

1.2.7 on 26 April 2019, informed Client B and Client C that a pre-trial conference had taken place and that the Tribunal had dismissed the freeholder's case when he knew or ought to have known that neither had occurred;

1.2.8 on 22 July 2019 sent Client B and Client C a 'Tribunal approved version of the lease extension' when he knew or ought to have known that the Tribunal had not issued any approved version of the lease extension;

1.2.9 on 22 July 2019 provided a letter for Client C to send to her bank stating that the lease extension had been achieved through the Tribunal proceedings when he knew or ought to have known that there had not been any such proceedings;

1.2.10 on 2 December 2019, informed Client B that he would give a seven day deadline to the freeholder to comply with the court order or otherwise apply to the court for its enforcement when he knew or ought to have known that there was no such court order.

In so doing he breached any or all of Principles 2 and 6 of the SRA Principles 2011, Principles 2, 4 and 5 of the SRA Principles 2019 and Paragraphs 1.4 of the Code of Conduct for Solicitors, RELs and RFLs 2019.

1.3 Between March 2018 and August 2019, the Respondent made statements to his client, Client D which were untrue and likely to mislead her as to the progress of obtaining a Grant of Probate on her mother's estate, and which he knew or ought to have known were liable to have this effect at the time he made them in that he:

1.3.1 on 16 March 2018, informed Client D that he was waiting to hear from a forensic accountant when he knew or ought to have known that he had not instructed one;

1.3.2 on 7 and 14 June 2018, informed Client D that he was chasing a final report from a forensic accountant when he knew or ought to have known that no such report had been commissioned;

1.3.3 on 22 January 2019, informed Client D that the Grant of Probate should not take too much longer when he knew or ought to have known that no application for a Grant of Probate had been made;

1.3.4 on 25 June 2019, informed Client D that he would 'chase' the Grant of Probate when he knew or ought to have known that no application for a Grant of Probate had been made.

In so doing he breached any or all of Principles 2 and 6 of the SRA Principles 2011.

1.4 Between May 2016 and February 2018, the Respondent when selling a property during the administration of the estate of Client E:

1.4.1 failed to contact Client E's ex-wife Person F about the sale of the property which he knew or ought to have known that she owned jointly;

1.4.2 failed to obtain the said Person F's agreement to and signature on the transfer document and/or;

1.4.3 failed to carry out due diligence to identify the person who signed the transfer documentation representing themselves as Person F.

In doing so he breached Principle 6 of the SRA Principles 2011.

2. Allegations 1.1, 1.2, and 1.3 were advanced on the basis that the Mr Cohen's conduct was dishonest. Dishonesty is alleged as an aggravating feature of the misconduct but is not an essential ingredient in proving the allegations. In the alternative, all of the allegations are advanced on the basis that the Respondent was reckless.

Executive Summary

3. Mr Cohen admitted the entirety of allegations 1.1, 1.2, 1.3 and 1.4. He accepted in respect of allegations 1.1 and 1.2 that his conduct was dishonest.

4. Mr Cohen accepted in respect of allegation 1.3 that his conduct was reckless.

Preliminary Matters

5. The Applicant made the following preliminary applications:

5.1 For leave to make the application less than 28 days before the date of the substantive hearing on the basis that the parties had been in discussions since 21 March 2023 and it had taken some time for the parties to reach agreement.

5.2 To withdraw recklessness in respect of allegations 1.1 and 1.2. In respect of allegation 1.3, the Applicant invited the Tribunal not to consider dishonesty on the basis that it is not in the public interest for the Tribunal to determine those allegations in light of the admissions which included dishonesty, and the Respondent's agreement to be struck off the Roll of Solicitors.

6. The Tribunal consented to both applications and gave the required permission.

7. The Tribunal agreed that it was not necessary, proportionate or in the public interest to proceed to a contested hearing in order to resolve the question of dishonesty on allegation 1.3.

Documents

8. The Tribunal had before it the following documents:-

- Rule 12 Statement and Exhibit IWB1 dated 23 January 2023
- Statement of Agreed Facts and Outcome dated 25 May 2023

Background

9. Mr Cohen was admitted to the roll of solicitors on 15 July 1998.

10. He joined the Firm in 2003 and became a partner in 2005. He was the Firm's Compliance Officer for legal practice ("COLP"), its Compliance Officer for finance and administration ("COFA"), its Money Laundering Reporting Officer ("MLRO") and its Money Laundering Compliance Officer ("MLCO").

11. As such he had responsibility for ensuring that the firm had systems and controls in place to enable the firm, its managers, owners, and employees to comply with the Accounts Rules and all relevant regulatory requirements. These were responsibilities which could not be delegated to others.

12. Following concerns raised in respect of Mr Cohen's handling of the Client A matter, the Firm wrote to him on 12 December 2019, urging him to resign from the partnership. Mr Cohen ceased to be a partner at the Firm on 17 January 2020. The Firm closed its practice on 31 October 2022.

13. The SRA was notified of a failure by Mr Cohen to comply with an undertaking to remove a restriction on a property following completion.

14. As of 27 July 2019, no further regulatory action was taken on the basis that he had rectified the issue once it had been drawn to his attention. A letter of advice on having the appropriate systems in place to manage undertakings was issued.

15. Mr Cohen's practising certificate for the year 2021/2022 was subject to the following conditions:

- He shall not act as a manager or owner of any authorised body;
- Subject to condition (1) above, he may act as a solicitor, only as an employee where the role has first been approved by the SRA;
- He shall not act as COLP or COFA for any authorised body.

16. Mr Cohen had not renewed his practising certificate for the year 2022/2023.

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

17. The parties invited the Tribunal to deal with the Allegations against Mr Cohen 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

18. 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 Mr Cohen'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.

19. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that Mr Cohen's admissions were properly made.

20. The Tribunal considered the Guidance Note on Sanction (June 2022/10th Edition). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.

21. The Tribunal noted that Mr Cohen admitted his conduct was dishonest and by doing so he accepted that he knew he had made untrue and misleading statements to clients on the progress of their matters. These untruths were substantial and significant in nature. This very serious misconduct was made more egregious by the fact that he occupied the role of the Firm's COLP and COFA and he would have been trusted not only by his clients not to mislead them but also by his Firm to ensure that all systems, safeguards, rules and regulations were in place and were being followed.

22. The Tribunal found that sanctions such as a Reprimand, Fine or Suspension did not adequately reflect the seriousness of the misconduct. The Tribunal found that given the admission of dishonesty, the only appropriate and proportionate sanction was to strike Mr Cohen off the Roll of solicitors.

23. The Tribunal did not find that there were any exceptional circumstances such that striking Mr Cohen off the Roll would be disproportionate. Accordingly, the Tribunal approved the sanction agreed by the parties.

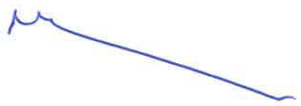
Costs

24. The parties agreed that Mr Cohen would pay costs in the sum of £17,995.00. The Tribunal determined that the agreed amount was reasonable and proportionate. Accordingly, the Tribunal ordered Mr Cohen to pay costs in the agreed sum.

Statement of Full Order

25. The Tribunal Ordered that the Respondent, RICHARD MICHAEL COHEN, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £17,995.00.

Dated this 9th day of June 2023
On behalf of the Tribunal



R Nicholas
Chair

Case Number: 12432-2023

IN THE SOLICITORS DISCIPLINARY TRIBUNAL

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

AND THE MATTER OF:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

and

RICHARD MICHAEL COHEN

(SRA ID: 31707)

Respondent

STATEMENT OF AGREED FACTS AND OUTCOME

Introduction

1. By statement made by Ian Brook on behalf of the Solicitors Regulation Authority Limited (the "SRA") pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019, dated 23 January 2023, the SRA brought proceedings before the Tribunal making allegations of professional misconduct against the Respondent.

2. The Respondent admits the allegations set out in the Rule 12 statement, including the aggravating feature of dishonesty in respect of allegations 1.1 and 1.2.

3. The Applicant applies to withdraw recklessness in respect of allegations 1.1 and 1.2. In respect of allegation 1.3, the Applicant invites the Tribunal not to consider dishonesty. This is explained at paragraphs 8 to 11 below. The invitation to the Tribunal for them not to consider dishonesty in respect of allegation 1.3 is on the basis that it is not in the public interest for the Tribunal to determine those allegations in light of the admissions in this document, which include dishonesty, and the Respondent's agreement to be struck off the Roll of Solicitors.

Allegation

4. The allegations against the Respondent are that, whilst in practice as a partner at Rudds Solicitors ("the Firm"):

    1. Between November 2018 and May 2019 the Respondent made statements to a client, Client A, which were untrue and were likely to mislead him as to the progress of legal proceedings, and which he knew, or ought to have known, were liable to have this effect at the time he made them in that he:
        1.1. on 7 November 2018 informed Client A that he had sent notice of an injunction to another party's solicitors when he knew or ought to have known that he had not;
        1.2. on 21 December 2018 provided a paragraph for Client A to use in correspondence with his local authority which stated that he was in the process of obtaining an injunction and declaration from the court when he knew or ought to have known that no application had been issued or commenced;
        1.3. on 17 May 2019, informed Client A that a hearing date had been set for 28 June 2019 when he knew or ought to have known that no hearing date had been set.

    In so doing he breached any or all of Principles 2 and 6 of the SRA Principles 2011;

    2. Between June 2017 and January 2020, the Respondent made statements to his clients, Client B and Client C, which were untrue and likely to mislead them as to the process of obtaining a lease extension on their behalf, and which he knew, or ought to have known, were liable to have this effect at the time he made them in that he

2.1. on 5 June 2017, confirmed to Client B and Client C that he had made an application to the Tribunal when he knew or ought to have known that he had not;

2.2. on 15 September 2017, informed Client B and Client C that a date had been set for mediation when he knew or ought to have known that it had not;

2.3. on 22 September 2017, informed Client B and Client C that the mediation had taken place when he knew or ought to have known that it had not;

2.4. on 4 May 2018, informed Client B and Client C that a Tribunal hearing had been scheduled for 19 June 2018 when he knew or ought to have known that it had not;

2.5. on 18 June 2018, informed Client B and Client C that the hearing he claimed had been scheduled for 19 June 2018 had been adjourned when he knew or ought to have known that no such hearing had been scheduled or had been adjourned;

2.6. on 23 January 2019, informed Client B and Client C that a new hearing date had been set for 30 April 2019 when he knew or ought to have known that it had not;

2.7. on 26 April 2019, informed Client B and Client C that a pre-trial conference had taken place and that the Tribunal had dismissed the freeholder's case when he knew or ought to have known that neither had occurred;

2.8. on 22 July 2019 sent Client B and Client C a *'Tribunal approved version of the lease extension'* when he knew or ought to have known that the Tribunal had not issued any approved version of the lease extension;

2.9. on 22 July 2019 provided a letter for Client C to send to her bank stating that the lease extension had been achieved through the Tribunal proceedings when he knew or ought to have known that there had not been any such proceedings;

2.10. on 2 December 2019, informed Client B that he would give a seven day deadline to the freeholder to comply with the court order or otherwise apply to the court for its enforcement when he knew or ought to have known that there was no such court order.

In so doing he breached any or all of Principles 2 and 6 of the SRA Principles 2011, Principles 2, 4 and 5 of the SRA Principles 2019 and Paragraphs 1.4 of the Code of Conduct for Solicitors, RELs and RFLs 2019.

3. Between March 2018 and August 2019, the Respondent made statements to his client, Client D which were untrue and likely to mislead her as to the progress of obtaining a Grant of Probate on her mother's estate, and which he knew or ought to have known were liable to have this effect at the time he made them in that he

   3.1. on 16 March 2018, informed Client D that he was waiting to hear from a forensic accountant when he knew or ought to have known that he had not instructed one;

   3.2. on 7 and 14 June 2018, informed Client D that he was chasing a final report from a forensic accountant when he knew or ought to have known that no such report had been commissioned;

   3.3. on 22 January 2019, informed Client D that the Grant of Probate should not take too much longer when he knew or ought to have known that no application for a Grant of Probate had been made;

   3.4. on 25 June 2019, informed Client D that he would 'chase' the Grant of Probate when he knew or ought to have known that no application for a Grant of Probate had been made.

In so doing he breached any or all of Principles 2 and 6 of the SRA Principles 2011.

4. Between May 2016 and February 2018, the Respondent when selling a property during the administration of the estate of Client E:

   4.1. failed to contact Client E's ex-wife Person F about the sale of the property which he knew or ought to have known that she owned jointly;

   4.2. failed to obtain the said Person F's agreement to and signature on the transfer document; and/or

   4.3. failed to carry out due diligence to identify the person who signed the transfer documentation representing themselves as Person F.

In doing so he breached Principle 6 of the SRA Principles 2011.

2. Allegations 1.1, 1.2, and 1.3 are advanced on the basis that the Respondent's conduct was dishonest. Dishonesty is alleged as an aggravating feature of the Respondent's misconduct but is not an essential ingredient in proving the

allegations. In the alternative, all of the allegations are advanced on the basis that the Respondent was reckless.

Admissions

5. The Respondent admits the entirety of allegations 1.1, 1.2, 1.3 and 1.4.

6. The Respondent accepts in respect of allegations 1.1 and 1.2 that his conduct was dishonest.

7. The Respondent accepts in respect of allegation 1.3 that his conduct was reckless.

Application to withdraw allegation of recklessness/invitation not to consider dishonesty

8. The Respondent admits all of the allegations set out above. For the avoidance of doubt, he admits allegations 1.1 and 1.2 on the basis that his conduct was dishonest and he admits allegation 1.3 on the basis that he his conduct was reckless.

9. The allegations of dishonesty and recklessness, were put in the alternative and therefore were mutually exclusive: only one could be found. The Applicant considers (and the Respondent accepts) that those allegations were properly made.

10. However, as set out above, the Respondent admits that his conduct as admitted in relation to allegations 1.1 and 1.2 was dishonest. Accordingly, the parties apply to withdraw the allegation of recklessness in relation to those allegations on the basis that it is no longer in the public interest to pursue that allegation.

11. With regard to allegation 1.3, the Respondent denies that his conduct was dishonest. The parties agree that even without a finding of dishonesty in respect of this allegation, the admitted conduct taken together, including allegations of sustained dishonesty, justifies that the Respondent be struck off the Roll of Solicitors. Accordingly, it is not necessary, proportionate or in the public interest to proceed to a contested hearing in order to resolve the question of dishonesty. Accordingly, the parties invite the Tribunal not to consider the allegation of dishonesty in respect of this allegation.

Agreed Facts

12. The Respondent was admitted to the roll of solicitors on 15 July 1998.

13. The SRA was notified of a failure by the Respondent to comply with an undertaking to remove a restriction on a property following completion. As of 27 July 2019 no further regulatory action was taken on the basis that he had rectified the issue once it had been drawn to his attention. A letter of advice on having the appropriate systems in place to manage undertakings was issued.

14. The Respondent's practising certificate for the year 2021/2022 was subject to the following conditions:

    1. He shall not act as a manager or owner of any authorised body.
    2. Subject to condition 1) above, he may act as a solicitor, only as an employee where the role has first been approved by the SRA
    3. He shall not act as COLP or COFA for any authorised body.

15. The Respondent has not renewed his practising certificate for the year 2022/2023.

The Firm

16. The Respondent joined the firm of Rudds (54647), 81A High Street, Rayleigh, SS6 7EJ ("the Firm") in 2003 and became a partner in 2005.

17. The Respondent was the Firm's Compliance Officer for legal practice ("COLP"), its Compliance Officer for finance and administration ("COFA"), its Money Laundering Reporting Officer ("MLRO") and its Money Laundering Compliance Officer ("MLCO"): as such he had responsibility for ensuring that the firm had systems and controls in place to enable the firm, its managers, owners and employees to comply with the Accounts Rules and all relevant regulatory requirements (see Rule 8.5 SRA Authorisation Rules 2011): these were responsibilities which could not be delegated to others.

18. Following concerns raised in respect of the Respondent's handling of the Client A matter, the Firm wrote to the Respondent on 12 December 2019, urging him to resign from the partnership. The Respondent ceased to be a partner at the Firm on 17 January 2020. The Firm closed its practice on 31 October 2022.

Matters relating to Client A

Factual Background

19. In or around 9 July 2018, Client A instructed the Firm in relation to the purchase of a two bedroomed bungalow, Property A. The Respondent had conduct of the case. Client A has provided a witness statement for the purpose of these proceedings.

20. Client A had a prior relationship with the vendor, a Person G, and had been living at the property as a tenant since September 2017.

21. The sale was by way of a transfer of part of a registered title. A purchase price of £325,000 was agreed in July 2018.

22. During the course of negotiations regarding the purchase, issues arose with regard to the garden and the extent to which it formed part of the parcel of land for which title would be transferred. Client A's evidence set out in a pre-action letter to the Firm was that he had been reassured repeatedly by the vendor that he would be sold the entirety of the garden.

23. On 29 August 2018 the Respondent "appeared to confirm the plan and TP1". Client A advises that he was not privy to this document and no instructions from him were sought.

24. Exchange and completion in relation to the sale the property took place on 21 and 27 September 2018 respectively. The Respondent acted for Client A and signed the contract of sale on his behalf. The relevant transfer documents were lodged at the Land Registry on 28 September 2018: notwithstanding that the application was purportedly – from Client A's point of view – for a transfer of the whole plot, it was supported only by a TP1[1], rather than a TR1[2]. It was rejected by the Land Registry: it does not appear that registration was ever completed.

[1] A Land Registry pro-forma document to be used in connection with the transfer of part only of a registered title

[2] The corresponding Land Registry pro-forma document to be used in connection with transfer of the whole of a registered title

25. Following completion, Client A's evidence is that the vendor returned to the property and reconstructed a fence reducing the size of his garden. Further, that he, Client A, was required to enter into a *"side agreement"* for access to the side of the property *"for bins etc"* at a cost of £10,000 which was paid by a cash payment and payment in kind to the vendor's solicitors. Accordingly, he instructed the Respondent to cancel the application to register the transfer of property at the Land Registry and to make an application for an injunction regarding the unwanted fence and a declaration as to ownership of the land. The chronology of the said injunction and declaration were as follows:

26. On 31 October 2018, Client A emailed the Respondent advising that he had received a number of text messages from the vendor "*where he kept telling me he was going to take down the fence… I got a lot of communication on my phone I can snapshot it and send it to you pls."* In an email response sent at 11.38 on 31 October 2018, the Respondent replied: *"keep these handy for now [Client A] as will act as evidence if we need to go that way".*

27. On 7 November 2018 at 09.27, Client A emailed the Respondent asking if he was able to *"send the notice to them yesterday"*. In his witness statement to the SRA Client A confirms that he understood "notice" to refer to a notice of injunction which he believed had already been obtained. In a response sent at 10.39, the Respondent replied "*Yes all done [Client A] so let's see what happens in the next few days".*

28. On 9 November at 12.57 Client A emailed the Respondent asking if there was *"any news from [Person G's]* [the vendor] *solicitor pls*". At 14.20 the Respondent replied by email: *"not yet [Client A] – they have a couple more days so will see what happens or advise further".*

29. On 13 November 2018 at 07.55, Client A emailed the Respondent stating: *"It 7 days now and [Person G] still haven't pull down the fence and don't think he will so pls ahead with the second action if you need me to come in today pls let me know and will be. Thank you."* The Respondent replied at 09.35, advising that the vendor had until the end of the day to respond. He assured Client A: *"if nothing by close of play I will start drafting proceeding (sic). You do not need to come in but I will keep you updated and let you know if I need anything".*

30. On 15 November 2018 at 02.07 Client A emailed the Respondent to "*find out if the injunction has been fill (sic) against [Person G] for trespassing, fraud and aggressive behaviour on my land. Please kindly let me know if there is anything you want me to do."*

31. In an email response sent at 09.46 on 15 November, the Respondent stated: *"I am taking care of things this end and will advise. This will be treated as a non urgent application by the court (as it relates to land, not domestic violence etc) but will hopefully spur the other party into action in any event'.*

32. On 19 November 2018, Client A emailed the Respondent asking him to confirm that he had *"lodged the application"* and asking for a copy for his records. The Respondent replied by email sent at 14:04 *"Thanks [Client A] – if required I will arrange for a copy to come over to you. Just wanted to keep costs to a minimum etc until we know the outcome".*

33. On 26 November 2018 the Respondent emailed Client A advising that he had spoken with the vendor's solicitor. He advised: *"it may be that we can sort this out without the court so I will send an argument over to them to consider but otherwise a judge can decide"*.

34. On 27 November 2018 and the Respondent communicated again via email, the Respondent advising Client A to *"hang on"* to any pictures he had of the property as he had *"a feeling we may need them".* They agreed that communications between Client A and the vendor should be conducted via their respective solicitors.

34. On 7 December 2018, the Respondent emailed the vendor's solicitor, BTMK, noting that a "*significant dispute*" had arisen between their respective clients concerning the transfer of title and the situation of the fence. He suggested the vendor's solicitor seek instructions as *"obviously an amicable solution would be preferable to all parties concerned".*

35. On 18 December 2018 Client A emailed the Respondent at 06.23 enquiring after court proceedings:

> *"It been a while since and I've not heard from you pls have you not received any date so far, it really don't want this to enter new year it not be easy leaving I've to constant close my windows and put new cctv all over my house now as I don't feel safe the way [Person G] acted .*
> *I know you busy but if you've a minute can you find out about the progress pls"*.

36. In a reply sent at 09.50 on 18 December 2018 the Respondent confirmed that there was *"no update yet"* and suggested there would not be one before the Christmas break. He noted however *"I would expect to make progress early in the new year if they have not conceded then point prior* (sic)*. I will advise as soon as."*

37. On 19 December 2018 Client A emailed the Respondent advising he had received notice from Basildon Council ("the local authority") to the effect that the vendor Person G wished to build on the land Client A believed to be his. Client A noted that he had *"asked you before for a copy of the application you submitted to the court but I have still not got a copy".* He asked for the court and case number so he could attach it to his response which had to be filed within 21 days.

38. On 20 December 2018 Client A forwarded the notice from the local authority to the Respondent. The Respondent replied by email on 21 December 2018 with a suggested paragraph for Client A's response:

> *"On completion of the matter my solicitor was given a Transfer document with an amended plan and since completion the Vendor and applicant for planning permission that you have has erected a fencer [sic] at the property which I consider to be illegal. I have instructed my solicitors to deal with this and* ***they are in the process of obtaining an injunction in relation to the fence as well as a declaration from the Court as to the ownership of the land****."* (emphasis added).

39. Client A's evidence is that he sent the letter to the local authority through its online portal. Ultimately the vendor's application to build on the contested land was refused.

40. On 16 January 2019 the Respondent emailed Client A, apologising for missing a telephone call. He wrote: *"I will now sit down and try and work out some further*

timetable and ***when we will likely be heard on this*** *and will update you shortly."* (emphasis added).

41. Having received no update from the Respondent, in March 2019 Client A asked one of his customers who worked at Basildon Court to search for evidence of an application having been filed in his case. His evidence is that his customer could find no reference to any such application. On 25 March 2019, he wrote to the Respondent again requesting the case number to facilitate this process:

> *"I don't want to be a pain or disrupt you from your job but I fee l you've not drafted the letter which was supposed to be sent over a month and half ago… it taking almost 6-7 months and I can't do any works on the property…"*

42. The Respondent replied in an email sent at 09.17 on 27 March 2019. He advised that Client A's statement had been delayed by a *"shortage of typists"* and that this was integral to *"moving forward"* with the case. He went on to say:

> *"I am uncomfortable with the notion of a third party checking up on things. You must rest assured that I am dealing with the matter correctly for you and I feel I am best placed to do this as having knowledge of what happened during the conveyancing. If you do not feel this way I can arrange for paperwork to be sent on but I hope you will let me continue. I would point out that I have not yet requested any funds from you and have been in touch with you on* a regular basis".

43. On 17 May 2019, the Respondent emailed Client A, noting his anxieties in the delay and advising that he had "*requested a court date as that part of the process has so far been very slow"*. He observed that a preliminary hearing to *"discuss the issues"* would be required followed by directions for further evidence. He raised further questions on Client A's evidence, specifically with the placement of the fence on the plan provided by the vendor. He added a postscript to his email:

> *"PS – since dictating the above we now have a date of 28th June. As stated this will be an opportunity to narrow the issues of the case and set directions. It may be that the case is decided there and then if strong enough or unanswered and further keeps the pressure on so I can go back to his solicitor to see if they will*

short prior to avoid legal costs and damages which we are also going to be asking for."

44. On or around 28 June 2019, the day of the purported hearing, Client A contacted the Firm. The Respondent was not available.

45. Enquiries made to Basildon County Court on behalf of the SRA have confirmed that no applications concerning Client A made by the Respondent can be traced.

46. On 27 August 2019, a partner at the Firm, John Philpott, emailed the Respondent noting that he had received some *"difficult calls"* from Client A. He noted that Client A had informed him that the Respondent had brought court proceedings on his behalf; he observed *"from the file, other than the preparation of a witness statement, I can see no sign of court proceedings…"* He enquired whether the Respondent had a separate file for the proceedings and observed *"more to the point, it appears that the purchase and related mortgage has not yet been registered".* He requested an update and explanation.

47. In response, in an email dated 28 August 2019, the Respondent acknowledged:

"I had a brief chat with Bob [Adams, a partner at the Firm] *on [Client A] yesterday. Firstly, I am sure you have deduced that* ***there are no pending proceedings*** *and frankly I have got myself into a muddle with this one"* (emphasis added).

48. On or around 10 September 2019 Client A instructed solicitors to pursue an action in negligence against the Respondent.

49. On 26 November 2019, the Respondent attended a meeting with a partner at the firm, John Philpott. On 12 December 2019, Mr Philpott wrote to the Respondent advising him of further correspondence from solicitors acting for Client A making allegations of negligence and professional misconduct. He noted the severity of the allegations, specifically that the Respondent *"had informed the client that he had issued court proceedings when he had not and continued the pretence with the client and lied repeatedly to him in this respect."* He continued:

"we had a further meeting with you on 26 November last to inform you that a formal complaint was to be made by Client A's *solicitors.* ***You accepted that you had lied to Client A and misled him in respect of the non-existent court proceedings and explained that it was due to pressure of work and receiving constant emails and telephone calls not just from Client A but clients generally and you were finding it difficult to cope and thought that, if you just told the client something, even if not true, it would buy you time to resolve the matter later when the pressure was not so great****. We asked you why you did not inform us of the difficulties you were encountering so that we could help but you did not do so as you did not feel it would be necessary and did not want to burden Bob on top of his heavy workload. We pointed out the seriousness of your actions and your obligations and responsibilities as a solicitor and partner of this firm and that your actions could seriously affect the goodwill and name of this firm and put you in breach of the SRA code of conduct and the expectation that if Client A's solicitors decided to report the matter to the SRA it would have serious consequences for him and for the firm"* (emphasis added).

50. Mr Philpott noted that a decision had been made that the Respondent should leave the Firm on 23 December 2019.

51. On 16 December 2019, the Firm notified its insurer that it had received a pre action letter of claim from Client A.

52. On 20 January 2020, the Respondent drafted a memo to the Firm's partner, John Philpott in the course of which he:

    52.1 denied Client A having been introduced to the firm by the vendor, Person G;

    52.2 maintained that there were a number of *"under the table"* matters which were not disclosed during the transaction which were outside the terms of the property purchase;

    52.3 maintained that the contract *"purported to be a sale of whole"* of the property; further that if the vendor had enticed Client A into purchasing the property on the basis it would be complete *"that is not something that we would have been party to"*; albeit that he also maintained that the mortgage provider, Client S, *"did do a valuation of the property and when they did the valuation the fence was in situ…."*

53. The Respondent stated in his defence:

> *"Whilst it is of course regrettable that Client A was given the impression that legal proceedings were further advanced that they were this was merely down to pressure of work. Certainly, the time had been taken to take instructions and correspond with the other solicitor as well as sit down and deal with an extremely detailed witness statement for the client in relation to moving forward. Perhaps with hindsight at this stage it may have been better to either have referred the matter straight to the litigation department or perhaps invite Client A to take the matter to another firm (particularly in that at that stage it became apparent that Client A had kept matters from us to his own end)."*

54. In March 2020, the Firm wrote to Client A admitting for the purposes of the pre-action protocol exchange that it had not completed the registration formalities for the property, further that no application to Court for an injunction in relation to the fence or a declaration as to ownership had been made.

55. On 21 May 2020, the Firm wrote to the SRA advising that the Respondent had left following potential breaches of the Code of Conduct. In a further letter dated 22 June 2020, the Firm outlined the events arising out of Client A's case, noting that:

> ***"****No court proceedings had been issued and, possibly, were not even warranted. When confronted by his partners on this and why he had lied to the client about non-existent court proceedings, Mr Cohen admitted that there were no court proceedings but he felt he had to lie to the client to satisfy the client's enquiry and to give himself time in order to resolve the matter."*

Allegation 2: Failure to obtain lease extension

56. In or around October 2011, the Respondent was instructed to act for Client B in relation to the purchase of a property: "the West London Flat".

57. The evidence of Client B's wife, Client C and of Client B himself, is that they handled the purchase of the property together. Both Client C and Client B have provided witness statements for the purpose of these proceedings.

58. At the time of purchase, the West London Flat was a leasehold property with a reduced lease of 46 years, expiring in December 2057. The Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act") sets out, inter alia, rights by which tenants may qualify to acquire new leases of leasehold property; it also sets

out strict procedures and time limits by which applications to court or the leasehold valuation tribunal must be made.

59. The previous leasehold owner of the West London Flat had served a notice pursuant to s.42 of the 1993 Act in May 2011, requesting a new lease expiring in December 2147 and proposing a premium of around £90,000. The then freeholder and landlord under the 1993 Act ("the Landlord") had served a counter notice in July 2011 admitting the right to purchase but offering a counter-proposal premium of around £130,000.

60. On 9 November 2011, solicitors for the vendor emailed the Respondent, enclosing the first notice and counter-notice, advising they were *"still in negotiations"* but inviting Client C to take over the matter.

61. On 23 November 2011 the Respondent emailed Client B confirming that the current owner had served a notice on the landlord offering around £90,000 to extend the existing lease; a counter notice of £100,000 had been served by the Landlord. The Respondent advised that the lease could be assigned to Client B on completion. In a further email sent on 6 December 2011, the Respondent advised Client C to continue with the lease extension in preference to starting *"from scratch".*

62. Completion of the assignment of the lease from the vendor to Client C took place on or around 22 December 2011. One of the terms of the purchase of the West London flat was that Client B and Client C took assignment of the benefit of the notice served pursuant to s.42 of the 1993 Act – the ability to exercise the right to acquire a new lease by giving the appropriate notice. The Respondent was instructed to proceed with purchase of the said new lease.

63. Pursuant to s.48(1) and (2) of the 1993 Act Client B and Client C had six months to respond to the Landlord's counter-notice. In the absence of any such response being lodged, pursuant to s.53(1) of the 1993 Act, on or around 3 January 2012, Client B and Client C's notice was deemed withdrawn.

64. On 9 January 2012 the Respondent wrote to Comptons solicitors who acted on behalf the management company responsible for the management of the building in which the West London flat was placed ("Management Company A") to which parts of the block of flats were demised, but which was not the freeholder/Landlord – in an attempt

to negotiate an agreed premium for the lease extension. In a reply dated 11 January 2012, Comptons advised that they did not act for the freeholder/Landlord and directed the Respondent towards Mishcon de Reya, solicitors for the Landlord.

65. In or around 23 August 2012, the Respondent made first contact with Mishcon de Reya noting that his client was *"unsure as to what the up to date position in this matter is"* and inviting them to *"conclude the formalities"*. In a response dated 28 August 2012, Mishcon de Reya requested a certified copy of the TR1 transfer form; having supplied the same in early September 2012, the Respondent made no further immediate contact with the firm.

66. Between 2012 and 2015 Client B and Client C and the Respondent were engaged in prolonged correspondence. Client B and Client C asked repeatedly after the lease extension: the Respondent reassured them repeatedly that progress was being made.

    66.1. On 18 March 2013 the Respondent advised that he had corresponded with a "*new set of solicitors*", Mishcon de Reya, who had asked for a copy of the transfer of the property to their names; he had *"chased the matter"* and would respond further.
    66.2. On 31 May 2013 Client C emailed the Respondent from Client B's address objecting to the delay and asking for an update.
    66.3. In June 2013 the Respondent corresponded briefly with Mishcon de Reya who informed him that *"your client's original notice has been deemed withdrawn under the 1993 Act"*. The Respondent did not advise Client B and Client C of the same, rather, in an email dated 3 September 2013 he suggested that *"my initial threats seem to have done the trick";* that the solicitors for the Landlord were arguing that the time for acceptance had passed but that *"I have immediately argued the case that initially yourselves and thereafter these offices were in touch with the previous people dealing with the matter and then with Messrs Mishcon De Reya when the matter was passed over to them. I therefore fail to see how any delays can be attributed to yourselves".* No such correspondence appears on the file. The Respondent did not mention the matter of statutory timeframes to Client B and Client C nor relay the suggestion made by Mishcon de Reya that the original notice had in fact been deemed withdrawn.

66.4. On 14 November 2013 Client B emailed the Respondent and asked for progress on the lease extension of the West London Flat. He noted: *"it is now urgent and time is running out for me".*

66.5. In a response to Client C dated 18 November 2013 the Respondent advised that he was waiting a reply from Mishcon de Reya.

66.6. On 28 January 2014 the Respondent advised Client B via email that he had *"contacted the last solicitor in fairly strong terms to ascertain their proposal of how they intend to rectify this matter".* He gave assurances that he would revert shortly.

66.7. On 21 February 2014 the Respondent emailed Client B and Client C and advised he had had no response but would give *"a final 7 days for a substantive reply"* before advising on further action.

66.8. On 11 March 2014, the Respondent once more contacted Mishcon de Reya and invited them to *"set out the basis you feel our clients have withdrawn from this matter under the 1993 Act".* He invited them to seek instructions and advise *"what options may be available to [my clients] to resolve this matter"*. He then wrote to Client C on 20 March 2014 suggesting that the Landlord's solicitor had *"suggested a fresh notice is served".*

66.9 On 13 June 2014, the Respondent served a fresh notice pursuant to s.42 of the 1993 Act. In a response sent on 24 June 2014 Mishcon de Reya advised that the same was invalid as it failed to provide the requisite 2 month period for service of a counter-notice.

66.10. On 30 June 2014 the Respondent emailed Client B, advising that he had been in touch with the Landlord's solicitors. He noted that the original notice served by the previous owner had been *"just shy"* of £90,000 and that Client B had agreed a sum of £125,000 which he suggested left room for negotiation and invited a response.

66.11. In a response sent at 13.01 the same day, Client B denied having agreed to any figures and set out his understanding of the case: *"I had taken on the application from the previous owner as allowed under law as I was told".* He noted: *"with rising prices everyone is up to mischief to charge more. But I have rights under the previous owner's application and amount agreed which I inherited as part of the sales agreement."*

66.12. On 17 July 2014 the Respondent served a further notice pursuant to s.42 of the 1993 Act, proposing a premium of £125,000. On 13 August 2014 the Landlord served a counter-notice admitting Client C's right to acquire a new lease but suggesting a premium of around £275,000; they also served notice requiring Client C to pay a deposit for grant of the new lease of £12,500. The deadline for any application to the Tribunal for a determination pursuant to s.48(2) of the

1993 Act was 13 February 2015 (or six months beginning with the date on which the counter-notice or further counter-notice was in fact served). In the event no further application were made, this notice too would be deemed withdrawn pursuant to s.53(2) of the 1993 Act.

66.13. In an email sent on 19 August 2014 Client B wrote that his wife was *"now very worried and extremely concerned if she cannot get the funds later which are available now".*

66.14. In an email response sent at 10.20 on 20 August 2014 the Respondent advised that he had received a response from the freeholder's solicitors and that *"the matter is at long last proceeding".* He requested payment of 10% of the offer – ie £12,500 to be paid by way of deposit to the freeholder pending completion of the matter. He made no reference to the counter-offer of £277,380, nor to any previous notices having been withdrawn, nor to the statutory deadline for an application to the Tribunal – rather, he suggested "*is not clear whether the solicitors/freeholder will accept the final sum of £125,000.00 and this may be something that needs to be argued"*.

66.15. On 21 August 2014 a Ms Kate Burrows of Mischon de Reya emailed the Respondent attaching a draft lease. On 26 August 2014 the Respondent paid Client B and Client C's deposit of £12,500 to Mishcon de Reya.

66.16. In an email dated 15 October 2014 Client B contacted the Respondent noting that *"it's been almost three years"*. In a reply sent later that evening, the Respondent replied *"I believe the lease plan has now been drawn up and I await a copy of the draft final document which I am told will be here soon. I will be advising further on receipt and will keep all parties informed".*

66.17. In a further email sent on 4 November 2014 Client C asked the Respondent, *"any update please as I am now getting very concerned as it has been 3 years since I asked you to do this for me?"*

66.18. In a reply sent at 10.02 on 5 November 2014, the Respondent advised Client C *"I have now received the proposed draft under lease and the plans and these all appear to be in order. Accordingly all that is outstanding is agreement in relation to the final figures and I am waiting for a reply in this regard."* On the same day he emailed Mishcon de Reya, noting they were *"a long way apart"* on figures and inviting the Landlord to *"take a view"*.

66.19. Having advised in January that he was continuing to *"chase"* for a response, on 13 February 2015 the Respondent advised Client A *"I have chased this in the last few days and expect to have a full update. In the absence of a substantive or satisfactory reply I will advise as to options that will be available to conclude* matters".

66.20. In a response sent at 10.47 on 13 February 2015 Client C remarked that the situation was "*very strange – why are they not responding? Is there something we have done incorrectly that gives them the right not to respond?*" to which the Respondent replied "*no I don't think so – just slow! Will be following up*".

66.21. On 26 March 2015 Client B emailed the Respondent: *"any update?"* in a further email in the same chain, sent on 7 April 2015, Client C added *"urgent"*. In a response sent on 8 April 2015 the Respondent wrote *"Unfortunately we find ourselves in a position where there is still no further positive feedback and accordingly as per my earlier email I shall now make preparation for this matter to be referred to a valuation tribunal for final determination. I write to you in more detail in relation to this over the next few days but clearly the matter now needs resolution"*. He again made no reference to the relevant statutory time limit for any application to the Tribunal which had again expired on 13 February 2015.

66.22. On 11 May 2015 Client C contacted Mr Nicholas Kirby at Mishcon de Reya to enquire after the three year delay in granting the lease extension. A Mr Mark Reading of Mishcon de Reya responded by email on 13 May 2015 advising that the terms of the lease had been agreed save for the premium payable thereon; he observed that the value of the premium would have been determined at a tribunal and Client B and Client's application for a lease extension protected – but that the deadline for such an application was 4 March 2015 and, as far as he was aware, no such application had been made. He noted that if indeed no such application had been made, Client B and Client C's claim for a lease extension would have been deemed withdrawn after 4 March 2015. He suggested they seek independent advice.

66.23. On 13 May 2015 Client C forwarded Mr Reading's email to the Respondent. In an email response sent later that day the Respondent advised that his *"detailed advice"* had been dictated and would follow shortly; further that he was *"not sure"* that Mr Reading's information was correct and that he was *"a little disappointed that you have approached the other solicitor without reference to me".*

66.24. In a reply sent at 10.41 on 14 May 2015 Client B expressed his dismay at the rising costs and delay. In a further email sent later the same day, Client C noted that the Respondent had spoken to her husband and that she had been reassured: *"You also believe the landlord is not correct in their interpretation or demand given that you have been following this up with them for three years and they have not been responding to you. I do feel a bit relieved"*.

66.25. On 18 May 2015 Client C emailed the Respondent asking for confirmation that the *"action plan"* to make the landlord *"comply with the valuation"* was under

control: she noted that the lease had been put up for sale such that the existing freeholder might soon change.

66.26. On 16 June 2015 Client C emailed the Respondent voicing her concerns. The Respondent replied that *"The application has now been put in hand and I will advise you once I receive a timetable of dates, etc for submission of any additional evidence and likely final hearing".* He noted that there were two matters before the Tribunal: the fair price for the lease extension and Client B and Client C's *"attempts to have this matter resolved at the time you originally purchased."*

66.27. On 23 June 2015 Client C emailed the Respondent noting that the process of lease renewal should generally take 3-6 months and questioning why the process in this instance had been so delayed. She remarked: *"obviously there is little room for doubt that the landlord has violated the rules if they did not respond to you in a timely manner and you followed all the rules"*. The Respondent replied in an email sent the same day, noting Client C's concerns and assuring her that *"we will do everything that we can to resolve this matter as quickly as possible"*. He noted *"the right to extend claim was inherited at the time of purchase and I do believe that the failure to complete at the time was down to a lack of responsible co-operation from the other solicitors. This is the evidence that will be presented at the Tribunal…."*.

67. On 24 June 2015 the original Freeholders and Landlord transferred the freehold title to the block in which the West London Flat was located to a new freeholder ("the New Freeholder"): any rights previously held by Client B and Client C as against the original freeholder were extinguished. The New Freeholder was represented by Nabarro LLP. Thereafter Nabarro and the Respondent engaged in correspondence regarding the lease extension claim: it appears that this was not communicated to Client B and Client C save that on 30 July 2015 the Respondent advised Client C that *"the matter will proceed albeit with the new freeholder"*.

68. On 17 February 2016 Client B emailed the Respondent noting that he had journeyed from India to London to assist his wife due to her concerns regarding the West London Flat. He asked to meet with the Respondent.

69. In an email sent at 10.56 on 22 February 2016 from Client B's email address but signed by Client C, Client C noted that she had asked her husband to come to London to meet with the Respondent. She noted that no one else in the building had been waiting four years for a lease extension.

70. In a further email in the same chain dated 25 February 2016 Client C noted *"I still have no update despite our repeated requests and my husbands (sic) calls to you from London and India."*

71. On 8 March 2016 the Respondent emailed Client B and Client C, noting they had telephoned his office. He apologised for delays due to *"staffing issues"* and advised that his formal reply was *"waiting to be typed".* He suggested delays in the lease extension were due to the *"legal party for the solicitor having changed hands"* (sic) and that they *"did not pass on any paperwork".* He suggested that they might now be *"at the point where they can make a decision on the replacement notice that was served on them".* He suggested he would have information in the coming days as to position and advised that *"[if] any counter-proposal is unacceptable then the matter will have to be referred back to a leasehold tribunal as per previous discussions for an arbitrated outcome".*

72. On 26 April 2016 the Respondent emailed Client B and Client C, thanking them for their respective emails and advising *"we are at the stage where the new solicitors acting for the relevant party have all of the information they require and I am awaiting to hear from them with a final yes or no decision as to whether they are to proceed on the basis we have already set out"*. He apologised to the delay which he attributed to the *"lack of reply from solicitors and then parties changing hands"*.

73. In mid-May 2016, Client B travelled to the Respondent's offices in Rayleigh for an in person meeting. Following the same, Client B emailed the Respondent, thanking him for his assistance and observing:

> *"It is very reassuring to know that you have followed the rules to the letter but the landlord and their solicitors have been very negligent and careless indeed even after the £12,500 (or the necessary amount) was sent by you to them almost two years ago. So it is good to understand that there are legal remedies and your case is on solid ground and that you expect them to come back with a figure for lease extension close to what was proposed and agreed to 3-4 years back"*.

74. Client B and Client C and the Respondent continued to respond through May and June 2016. The Respondent advised that "Law Society rules" prohibited him from contacting the freeholder directly but that he was still waiting for contact from their solicitor. He stated *"whilst I will chase this up it seems that the only option now is to*

reignite the issue of the tribunal proceedings as discussed with [Client B] here at the office."

75. On 20 September 2016 Nabarro LLP sent a letter to the Firm, returning funds sent by Client B and Client C minus costs. The letter noted there had been no response to an earlier email of 19 July 2016. It advised: *"if your client wishes to make a fresh application for a new lease it is invited to do so under the procedure set out in the Leasehold Reform, Housing and Urban Development Act 1993."*

76. By an email dated 23 November 2016 Client B agreed with the Respondent's advice and noted: *"you will now proceed to the tribunal at the earliest to bring this to a conclusion".* He asked to be kept informed of developments and noted: *"time is of course the essence here."*

77. On 25 January 2017 Client B emailed the Respondent, noting that he was in London for a short period and enquiring as to the next steps to *"get the lease extension done".* In a reply sent on 27 January 2017 the Respondent confirmed: "*at present I am pursuing litigation on this matter so there is nothing to update as we are waiting for dates and responses"*. He discouraged Client B from a meeting *"with a view to saving costs".*

78. On 27 March 2017 the Respondent emailed Client B and Client C noting that he had been in correspondence with the New Freeholder's solicitor and advising that he had:

> *" … repeated the history of the matter to the legal representatives and repeated the offer stating that if accepted we can proceed immediately with the formalities. If not, they have been warned that we are dissatisfied generally with the way that this matter has been dealt with and the delay so if not resolved to our satisfaction the matter will proceed through the Tribunal. "*

79. In May 2017 Client B once more flew to the UK in order to meet with the Respondent. In the run up to the meeting, the Respondent advised that he was *"now proceeding with tribunal"*. In an email sent on 24 May 2017 Client B noted that he and the Respondent had met the previous day: he requested a recap of the meeting in writing for his wife, specifically:

    79.1. What action – eg application to the tribunal – had begun *"in light of no response whatsoever from the landlord to the lease extension application and also sending £12,500 deposit as required";*

79.2. The expected timeline for the action;

79.3. *"what is your case and how hopeful you are of the legal soundness of the case"* in light of the landlord having been *"completely negligent"*.

80. In a reply sent on 26 May 2017 the Respondent confirmed:

80.1. The matter is now referred to the Tribunal, *"there will be no cause on this occasion to delay proceedings because of changes of solicitor etc"*

80.2. "*confirmation*" would be expected within three months and a hearing date set thereafter;

80.3. The matters to which he intended to refer in those proceedings:

80.3.1. Service of the original notice and *"lack of action on the part of the then solicitor in signing a transfer and completion of the same"*;

80.3.2. *"delaying tactics"* used by the freeholder and/or their solicitors;

80.3.3. The fact that, even after Client B and Client C had served a "fresh notice", *"no counter-notice has been served by the freeholder and/ or their representatives being deemed acceptance of the position*";

80.4. The case was *"essentially… a matter of enforcement";* the Respondent suggested he needed simply to *"compel the freeholder to sign the lease extension document at £125,000 to conclude the matter in order that we may register the same"*.

81. On 5 June 2017 Client B emailed the Respondent requesting that he *"confirm that the Tribunal application has been made"* so that Client B could confirm his travel plans. In a reply sent at 5.08pm that day the Respondent replied *"confirmed Gajinder – I understand you are to turn (sic) but can update if necessary by email".*

82. On 17 August 2017 Client B emailed the Respondent enquiring after the Tribunal application and querying why the leaseholder might wish to contest it. In an email response sent on 18 August 2017 the Respondent stated that he expected a *"notification on the mediation appointment soon"*; he observed that it was *"relatively normal for a freeholder to initially resist any application. This will still leave them with a window for negotiation and they have not cooperated thus far"*.

83. On 15 September 2017 the Respondent emailed Client B *"confirming"* that a telephone mediation prior to a tribunal hearing was *"normal"* and stating *"the telephone mediation is arranged for early next week".* He confirmed he would report back after the mediation and *"if not successful, the matter will proceed to hearing."*

84. On 22 September 2017 the Respondent emailed Client B: *"I confirm that the telephone Mediation has taken place".* He continued:

"Generally it was useful to have a conversation and the Issues themselves do not appear to be in dispute in that it is accepted that we are after a lease extension at the price originally offered. Part of resistance has come from the current freeholder who is generally blaming the previous freeholder and/or their legal representatives stating it was their short comings and not theirs that has led to the situation. I think the Mediator has kindly and helpfully pointed out that it is likely from a legal point of view that this is Irrelevant as when you take over a freehold you also inherit what the predecessors had done and this will now be a matter to be listed before the Tribunal for final consideration."

85. The Respondent has not pointed to any evidence that such a mediation did in fact take place.

86. On 25 October 2017 Client C emailed the Respondent noting that the mediation *"did not result in any resolution";* she stressed the urgency of the situation and asked for details of the tribunal hearing status from the court. In a further email from Client B sent on 8 December 2017, he lamented the continued lack of progress and his wife's ill health and the difficulty she had in climbing stairs to access the West London flat. He noted that *"[Client C] needs to look at other possibilities perhaps to see how to get the freeholder to moves she is suffering due to their negligence…."*

87. On 15 February 2018, following a telephone call from Client B, the Respondent emailed Client B and Client C: *"please accept this email as confirmation that I have chased the matter up with the Tribunal and we are now being told that we should have heard with a date by April."*

88. On 4 April 2018, solicitors for the New Freeholder, Cameron McKenna Nabarro Olswang, emailed the Respondent, noting that the cheque for the returned deposit had been cancelled. Cameron McKenna Nabarro Olswang subsequently transferred the monies once again (Client B and Client C's original £12,500 deposit minus the Original Landlord's costs) into the Firm's client account.

89. On 16 April 2018 Client B emailed the Respondent urging him to provide an update. On 1 May 2018 Client B emailed the Respondent, asking for an update, noting the process had been ongoing for five years. Thereafter he sent a number of emails

including on 4 May 2018 in which he confirmed a telephone conversation held with the Respondent earlier that day in which the Respondent had confirmed *"the tribunal has given the date of 19th June for the hearing. You will be sending us full details by early next week so that [Client C] is fully prepared".*

90. On 18 June 2018, the day before the anticipated tribunal date, the Respondent sent an email advising that he had just had a *"lengthy call with the tribunal"* which had agreed to a request for an adjournment made by the solicitor for the freeholder. He observed that *"the tribunal would rather not risk an appeal and subsequent delay if there was something of use in the old papers".* He reassured Client B and Client C that the other side would be responsible for any costs arising out of the adjournment, further, that this increased the chances of a settlement.

91. On 29 August 2018 the Respondent emailed Client B and advised *"we should be receiving a new date shortly for the tribunal – hopefully within the next fortnight."*

92. Client B emailed the Respondent urging him to *"follow up with the court to see when is the tribunal hearing"* on 10 September 2018. There appears not to have been any further update until 22 January 2019 when Client B contacted the Respondent by email once again. He noted that he had called twice but that his calls had not been returned; he again complained of the delay in resolving the matter. The Respondent replied that he did not have his file to hand but was *"pretty sure it is for date in April"*. The following day, 23 January 2019, the Respondent emailed Client B once more and advised: *"the tribunal date is 30th April from 10am. I will follow up this email with formal confirmation and info"*.

93. On 16 April 2019 the Respondent contacted Client B to advise that he had a *"pre trial conference"* scheduled and would report back thereafter. He reassured Client B: *"do not worry – there is no application to adjourn so will be final declarations and formalities".*

94. On 26 April 2019 the Respondent emailed Client B. He advised he had *"good news":* specifically:

"We have had the pre hearing conference and the judge has dismissed their case. It was agreed that it would be a waste to hear on what had already been argued. The

dismissal therefore is on the basis that they had not provided any new evidence or information since last year and it was felt that there had been ample time to do so. I will now need to wait for an order to come through and deal with the implementation but we should now be able to proceed as originally agreed".

95. As a result of this communication, Client B and Client C believed that they had *"won"* the tribunal. On the 11 June 2019 Client B emailed the Respondent asking if there was *"any news on the court order?"*

96. In a response dated 22 July 2019 at 4.25 pm the Respondent emailed Client B attaching a *"Tribunal approved version of the lease extension"* which he said *"effectively adds 90 years to the original term and records the consideration as being £125,000"*. The said lease included a new term of 166 years from a date to be inserted in 2019. The Respondent stated that the freeholder would need to sign the deed but that *"we will only be in a position to put pressure on once we can confirm that the funds are in place"*. He also sent a letter for Client B and Client C's bank or other lender which advised:

"We are Instructed by [Client C] as the leasehold proprietor of the above premises. Our client has recently been represented in Tribunal proceedings and has achieved a lease extension in the agreed format attached. We understand that correspondence of this nature is required for the purposes of raising the required finance in order to complete the lease extension. The agreed price for the lease extension is £125,000 plus costs although a 10% deposit has already been paid."

97. On 2 December 2019 the Respondent emailed Client B advising *"if no indication by tomorrow I will give a final seven day deadline or issue enforcement and they will be responsible for our costs etc."*

98. On 10 January 2020 the Respondent emailed Client B advising he was *"awaiting confirmation that the freeholder has signed the document and I also need a final completion statement."* He reiterated *"I now have an enforceable order. As such I have applied for a judge to either compel them to sign and complete or get this done by the judge himself if they will not cooperate."*

99. On 17 January 2020 the Respondent left the firm.

100. On 12 February 2020, Client B emailed Robert “Bob” Adams at the Firm and asked for an update: he noted that there was a serious buyer for the West London Flat and that his wife needed to sell and go to India to care for her mother.

101. On 3 March 2020 Mr Adams of the Firm emailed Client B to advise that he had heard from the Respondent who confirmed he was no longer able to act on the file. On the same day, Mr Adams emailed the Respondent noting

“I have looked at this file. You say there is an enforceable Order and we can get the Court to sign if necessary. Is that the case? Is the Order the Notice for the Lease extension.

I intend to write to the Landlord's Solicitors to say we now want to complete the Lease extension. Will that work?

I'm really struggling with this one (as you anticipated) and I don't know what to tell the client.”

102. In a reply sent on the evening of 3 March, the Respondent agreed that *“writing to them to get their up to date position is best starting point”.* He observed, however, that they were discussing a *“drawn out matter”* and that he *“had difficulty getting any cooperation throughout”.* Mr Roberts replied promptly the next morning, 4 March 2020. He again asked, *“is there an enforceable Order as you indicated to [Client B/Client C]?”*

103. On 6 March 2020 Mr Adams emailed the Respondent once again, noting he had not received a reply. He requested a response in order to advise the client appropriately; specifically he asked *“how do we enforce the Court Order you mentioned to the client? I can’t see one in the file!”* In an email sent at 08.19 on 9 March 2022 the Respondent replied *“No there is no court order but you will need to look at the history of the matter to decide how best to proceed….”* He then requested clarification of the Firm’s *“intentions”* with regard to payment of his tax and his capital shared.

104. On 13 March 2020 the Respondent emailed Client B advising *“I can find no evidence of ‘an Enforceable Order’ and [the Respondent] has emailed me to say there is no such Order. I do not know what he had in mind when he wrote to you about this and I am really sorry if he has misled you. I note from your email you were generally dissatisfied with the way Richard handled the transaction and I certainly cannot defend his actions.”.*

105. On 18 March 2020 solicitors at CMS Cameron McKenna Nabarro Olswang LLP responded to correspondence from the Firm and confirmed that the last correspondence they had had with the Respondent had been in July 2016 subsequent to which the statutory deposit had been returned as the matter was assumed abortive.

106. By letter dated 22 June 2020 in which it also addressed concerns regarding the Client A matter, the Firm advised the SRA that the Respondent had been engaged to act in the matter of Client B and Client C's lease extension and that he had both failed to complete the paperwork required for the same and subsequently claimed to have issued court proceedings when he had not. The Firm noted that the Respondent had *"lied to the clients and misled them as to what was happening"*; further, that he *"has proffered no explanation for his actions or inaction but has admitted that there were no court proceedings"*.

107. On 23 June 2020 Client C reported the matter to the SRA. On 30 July 2020 Client C issued a claim for damages for professional negligence against the Firm. A settlement was agreed in January 2021 with the Firm having to pay damages and costs to Client C.

108. On 7 May 2021 the Ministry of Justice confirmed that no application had been made by the Respondent on behalf of Client C to the First-tier Tribunal; further that no application had been received in relation to either the West London flat or Client C's other London address between 2014 and 2020.

Allegation 3: Mishandling of Grant of Probate

109. In or around June 2016, the Respondent was instructed to prepare a will for Client H. The will was executed on 24 June 2016; Client H died shortly thereafter on 4 July 2016. Her daughter, Client D was her sole executor. Client D in turn instructed the Respondent to obtain a grant of probate and to deal with the administration of her mother's estate. Client D has provided a witness statement for these proceedings.

110. In or around 14 July 2016, Client D attended the Respondent's office to discuss the winding up of the estate. An attendance note drafted that day recorded that the late Client H's estate consisted of at least seven mortgaged properties in London and Essex.

111. The Respondent warned Client D that the estate would be likely to attract inheritance tax and advised that *"the tax will need to be paid to obtain the Grant of Probate"*. The evidence of Client D is that the Respondent advised her of the likely need for the assistance of a forensic accountant.

112. On 26 January 2018, the Respondent wrote to various mortgage companies associated with the estate properties stating that *'the issue with the Grant of Probate has still not been resolved and the Grant is still awaited".* He advised of his intention to *"rush through the Grant of Probate so that our client has authority to deal with the same"* and that she intended to sell one of the properties in order to clear the arrears on others.

113. In an email sent on 16 March 2018, the Respondent advised Client D of ongoing correspondence with solicitors acting for the late Client H's husband, Person I. He noted that he was *"waiting to hear back from a forensic accountant generally on how long they would need with the papers and any other requirements that they have and I expect to be in a position to revert to you shortly on this.*"

114. On 6 June 2018 Client D emailed the Respondent. She asked if there was any update *"from the forensics at all?"* In a reply sent the following day, 7 June 2018, the Respondent advised *"at the time of dictating, I have not had the final report back but we were promised this imminently so I will chase in relation to the same. Again, I will advise."* In a further email sent on 14 June 2018 he advised *"I have chased the accountants report as this has still not arrived but this will be with us shortly"*.

115. On 20 July 2018 Hamlins solicitors acting for a mortgage company, Client T wrote to the Respondent regarding Property B. They noted that *"we have been advised that you are currently dealing with the estate on behalf of the deceased and are currently in the process of obtaining a grant of Probate".* They requested an update on the current position. In a response dated 9 August 2018 the Respondent advised that he was liaising with the executor (Client D) *"over the final formalities for the probate application and anticipate being able to submit this shortly"*.

116. On 22 January 2019, the Respondent informed Client D that the probate had not been concluded *'but do not think it will be too long now subject to any queries that*

may be raised. On 21 March 2019 he again advised that he was *"anticipating correspondence on this anytime now"* and advised he was *"chasing in relation to the Probate".*

117. The Respondent engaged in correspondence with various mortgage lenders regarding unpaid arrears on Client H's properties. On 27 March 2019 the Respondent wrote to one such mortgage company advising *"we still await the finalisation of the Probate before we can proceed".*

118. On 25 April 2019 Client D sought assurances given various tenants were being warned that *"there will be a court hearing in a couple of months and that the tenants are to be evicted".* She expressed surprise that the banks were not "*listening*" to the Respondent.

119. In a response dated 26 April 2019 the Respondent advised of the complexity of the situation regarding the various properties and their tenants. He discouraged Client D from attending an appointment she had booked to meet in person suggesting that he might otherwise *"get an update for you on the probate side of things".*

120. On 28 April 2019 Client D emailed the Respondent with a message heading *"Urgent!!!!!!*" She advised that her mother's husband had suggested to the family that probate had concluded and that she had retained her mother's money for herself; she noted that she felt *"about to crack"*. She said *"I need to have this closure now."* In a further email sent on 29 April 2019, Client D again requested an update: *"there must be some reason why there is a hold up"*. She requested that the Respondent *"let them know"* – presumably referring to HMRC – that she proposed to sell a property to *"pay for the full tax bill if they want a pledge immediately".*

121. In correspondence dated 25 June 2019 the Respondent discussed with Client D her concerns that Property B had been sold; he advised that it appeared that this had happened in April and that he was *"stunned";* he would seek further information on the subject. He added: *'In relation to the probate I believe they had stated it would be two to three weeks and the third week will end at the end of this week. If I have not by then [sic] I will be chasing up again'*.

122. On 23 July 2019, the Respondent informed Client D by email that he had *'spoken with Probate yesterday afternoon. There are still a few issues'*. He suggested there were particular difficulties with *"the land abroad"* and asked after information or a valuation. Client D replied promptly the next day that at last valuation the property was worth in the region of £125,000; she added that there was a possession hearing scheduled for 9 August for *"[Property C] and [Property D]".*

123. In response to a request for an update, the Respondent emailed Client D on 1 August 2019. On the matter of probate he wrote: "o*n the probate am still struggling with the query on the land abroad. I appreciate we have supplied a figure for the value but is there any supporting evidence in relation to the same? If not, I will supply a short statutory declaration for you on the point and we should then be able to proceed'*. He reports that Lester Aldridge, solicitors for Client A, mortgagor for Property C and Property D are *"open to negotiate";* he suggests agreeing to a suspended order pending receipt of the probate and sale. Client D responded promptly the same day noting her plans to sell various properties, including her house, in order to *"clear her name"*. She ends: *"see what Lester Aldridge say in regards to my offer or if you think there is another way. I am all ears."*

124. Notwithstanding that there is a requirement to report the value of an estate to HMRC by completing a form IHT400 within 12 months of a person dying, there is no evidence that the Respondent took any steps to begin this process. Nor does the file appear to hold any correspondence between the Respondent and HMRC.

125. On the Respondent leaving the firm on 17 January 2020, his file was passed to the Firm's Wills and Probate Department Ms Kelly Keeble. As set out in a letter sent to Client D on 10 March 2020 on considering Client D's file, Ms Keeble invited Client D for a meeting.

126. On 27 February 2020, Client D attended a meeting with John Philpott, and Ms Keeble. In response to Client D asking about the progress of the probate application, as Ms Keeble recorded in her attendance note:

> *I said that this had not actually been prepared in terms of the tax return and submitted to HMRC and although Richard had her sign a Probate Oath, it was not ever sent to the Probate Registry as the tax return would have been needed to be dealt with first. [Client D] said she was shocked at this and thought that Richard was*

just waiting for Probate to be granted as she said this is what he had told her. She asked if she was the only client to whom this had happened, and when I didn't answer John said that it wasn't appropriate to discuss other client matters. The client got upset at this point as she said her family had ostracised her as they believed that she had stolen the money
from her mother's estate'.

127. Ms Keeble advised that she would make the application for Probate as quickly as possible.

128. On 2 July 2020 Client D wrote to the Firm making a formal complaint. She stated:

128.1. She had been led to believe by the Respondent that he had applied for probate when he had not;

128.2. She had lost three properties on the will through repossession because she believed the Respondent had been in negotiations with the bank when she had not;

128.3. She had received an increased tax bill due penalties incurred as a result of delay.

128.4. Her attempts to pass her mother's file to a new firm have been compromised by the file being "a complete mess".

129. On 16 October 2020 the Firm emailed the SRA.

130. On 26 October 2020 the Firm wrote to an Investigation Officer employed by the SRA, noting the Respondent's previous experience of dealing with wills, probate and general administration of estates and observing his failure to apply for the grant of probate in this case to be "*inexplicable*". The Firm observed that *"it is clear that RC on different occasions mislead (sic) the client as to what was happening on the application for probate and, as the time went by, gave the impression that he had applied for probate and, in the final stages, informed the client that he had been in contact with the Probate Department…. When no such application or contact had been made"*.

131. Client D has begun legal proceedings against the Firm. She sets out in her witness evidence that the Respondent's mishandling of her mother's estate has led to her being ostracised by her family who believed she had appropriated the proceeds from the same; she complains of stress and the breakdown of her marriage as a result. She states that the Respondent *"destroyed my life"*.

Allegation 4: Mishandling of Estate

132. In or around May 2016 the Respondent was instructed to administer the estate of Client E, who had died intestate on 2 May 2016.

133. Client E's brother, Person J, was the executor of his brother's estate for which Grant of Probate was obtained on 16 September 2016. The estate included Client E's former home, Property E, which he had previously shared with his wife, Person I. Person I had left the marital home in 1989 and she and Client E had divorced in April 1991. Nonetheless, she had remained on the title deeds of the property as a joint tenant: as such she was entitled to, and expected, to inherit the property by survivorship in the event of his death. Client E was survived by a partner, Person K.

134. In or around 9 May 2016, the Respondent wrote to the deceased's partner notifying her that Person I was a joint tenant such that the property would *"theoretically… automatically pass to her"*. He requested her assistance in locating the final divorce order and/or the identity of solicitors who had dealt with the divorce.

135. On 12 August 2016, the Respondent wrote to Person J regarding his brother's estate. He noted the intestacy and the suggestion that the relevant parties – Person J, Person K and "Lee"[3] – had negotiated an agreement on how the estate would be distributed and suggested they would be able to document the same and thus make the appropriate probate application. He raised "*one note of concern",* namely that the property was jointly owned by Client E and Person I. He requested Person I's contact details "*as clearly this is something that will need to be resolved before any final distribution can be made".*

[3] Correspondence from the Respondent refers to a decision having been made by Person J, to divide Client E's estate between Person J, Person J, and "Lee" who is not identified but seems likely to be a relative, perhaps a child, of Person J.

136. On the same date, he wrote to Person K, advising that he had not yet seen a Consent

Order in relation to Client E's divorce and that *"it may be prudent to try and contact Person I as diplomatically as possible".*

137. Before any confirmation as to Person I's status was ascertained, Property E was put on the market. In an email dated 21 March 2017 estate agents Lawrence Anthony Homes contacted the Respondent and asked *"if there is anything stopping us agreeing a sale on the property".*

138. The Respondent replied the same day that he was waiting to hear from the Land Registry with regard to *"rectification of the title".* He noted that *"the deeds currently still have Client E's ex-wife named on them and we are seeking rectification in relation to the same".* He confirmed he was unsure of the relevant timeframe but was happy to begin a file and deal with any buyers' queries *"whilst this is being finalised".* He did not suggest that Person I might correctly be named as a joint tenant on the title and thus the effective owner of the property by way of survivorship.

139. In or around December 2017, a buyer was secured for Property E. On 14 December 2017 the Respondent wrote to Person J advising him of the same and inviting him in his *"capacity as Executor"* to sign the necessary final transfer document. He stated that *"on receipt of the document back from you I will again be able to apply pressure to your buyer to proceed especially given that we have dealt with their queries and the property is vacant"*. He made no reference to Person I.

140. On 8 January 2018 solicitors for the purchaser of Property E, Marcus Baum ("the purchaser's solicitors") emailed the Respondent asking a number of standard conveyancing questions. Included in the queries was the following:

"We note only a Grant of Probate has been provided for [Client E]. Please provide certified copy evidence as to why [Person I] is not selling.

141. On 15 January 2018 the Respondent copied and pasted the majority of the questions posed by the buyers' solicitors into a letter to Person J. He included in full and verbatim all those concerned with the state of the property; he excluded the questions regarding an indemnity and the status of Person I.

142. On 19 January 2018 the Respondent emailed a Ms Sophie Bews at the buyers' solicitors providing a response to the various questions posed. On the subject of Person I he wrote *"as per our earlier email we are checking the status with the Land Registry or will see whether we can speak to the former Person I (the divorce took place in 1981) and we have paperwork on file in relation to the same) and will revert on this point."*

143. In an emailed response sent from the buyers' solicitors later that day, the Respondent was advised *"we urgently look forward to hearing from you with regard to [Person I]".*

144. On 26 January 2018 the Respondent emailed the buyers' solicitors, apologising for the delay regarding the *"second name on the deeds".* He noted:

> *"We attach a new draft transfer on the format that you drafted but we have added [Person I] to the transfer and we should have this signed by her on Monday. The property is of course vacant and we are ready to proceed immediately on the understanding that your client had wanted to complete by the end of the month."*

145. On 29 January 2018 the buyers' solicitors emailed the Respondent: *"please confirm once you hold a signed contract and transfer by both [Person J] and [Person I]".*

146. The following day, 30 January 2018, notwithstanding his suggestion on 19 January 2018 that he was still attempting to contact Person I, the Respondent advised: *"all confirmed and ready to proceed when you are".*

147. Contracts for the exchange and completion of sale of Property E were signed on 1 February 2018. The Respondent was the named conveyancer. The purchaser was one Client H; the seller was listed as Person J as Executor of the late Client E. The name Person I was added in manuscript. The purchase price was £220,000. The Respondent confirmed safe receipt of the requisite funds in an email to the buyers' solicitors on 5 February 2018.

148. On 7 March 2018 the purchaser's solicitors forwarded a copy of the Land Registry requisition and a copy of the TR1 transfer document sent by the Respondent on completion. The said requisition from HM Land Registry, addressed to Martin Baum

Solicitors noted that the Land Registry was unable to complete the application for the transfer of title to the new purchaser, Mr Harrison Cook. It advised:

It appears from the TR 1 submitted with your application that either:

- the parties have signed separate pages which have then been added to the deed, or

- the execution pages have been taken from separate documents signed by the individual parties and reassembled to form a single deed.

Please provide either one deed signed by all of the parties or complete copies of the individually signed deeds.

149. By a letter dated 14 March 2018 the Respondent forwarded *"a scanned copy of the complete Transfer signed by [Person I]"* he noted that *"you had received the original Transfer signed by [Client E] with the signature page for [Person I] attached".* The name of Person I is added in manuscript as transferor with the initial "MB"; her signature is presented on a continuation form and witnessed by the Respondent. It is stamped with the Firm's official stamp.

150. On 15 March 2018 the buyers' solicitors emailed the Respondent once more advising:

You have attached a scanned copy of the original TR1 that was sent to Land Registry. The requisition issued by Land Registry states that, it appears the TR1 submitted are either separate pages which have been added to the deed or the execution pages have been taken from separate documents signed by the individual parties and reassembled to form a single deed. Land Registry therefore require one deed signed by all the parties of complete copies of individual signed deeds. Please find attached TR1 for execution'.

151. On 20 March 2018 the Respondent wrote to Person J enclosing a cheque for sent an interim payment of £140,000 *"by way of interim payment".* He noted that the Firm retained funds of £157,000 in order to ensure that all outstanding funeral costs could be settled. He referred to previous discussions regarding a proposed payment to the late Client E's partner, Person J: he made no reference to Person I nor to her entitlement to any funds arising out of the estate. By letter dated 20 June 2018 he forwarded the outstanding balance of £10,322.35. Again, there is no reference to Person I.

152. On 10 September 2020 Person I wrote to the Land Registry raising concerns that she had been a *"victim of fraudulent activity".* With reference to the TR1 transferring ownership to the new purchasers, she stated *"the signature on the final page purporting to be mine, is not mine. It was witnessed by a Richard Cohen of Rudds Solicitors, who I have never met."* In a number of exchanges thereafter she raised concerns and sought compensation for *"forging of my signature"*. She was advised by the Land Registry to report the matter to the police.

153. On 29 September 2020 the Land Registry wrote to the Firm advising that an allegation of forgery had been made by Person I. It requested any evidence that the Firm had *"met the transferor in person"* and for copies of any identification evidence obtained from them.

154. On 2 October 2020 John Philpott of the Firm wrote to the Respondent asking for an explanation in order that he might respond to the Land Registry.

    154.1. Mr Philpott noted that he had looked through the file and *"can see no ID evidence for this person nor is their (sic) any ID evidence in the general records".* He observed that the name of Person I had been added in manuscript and asked if the Respondent could *"confirm that a female purporting to be [Person I] attended the office and in your presence signed the CS and you, in turn, in her presence, witnessed the signature".* He also asked who had managed to contact Person I noting *"there appears to be nothing on the file to indicate?"* He further observed with *"deep concern"* that, following the sale of the property and completion of the administration of the estate, *"all residuary monies in the estate were paid to the executor and it does not appear on the file that any monies were paid to [Person I] unless the executor was going to deal with".* He noted the particular concern that if Person I was the beneficial joint tenant of Property E it was likely that the net estate thereafter would have been minimal.

    154.2. In an email response dated 10 October 2020 the Respondent advised that he could only *"vaguely recollect"* matters; he suggested the old ID folder should be checked in addition to both the probate and sales files and stated *"we would not have had a document signed without taking ID especially in a situation like this."*

    154.3. In an email response sent on 14 October 2020. Mr Philpott noted that there were not in fact two files, but only one, marked "probate" but filled with

matters concerning the conveyancing. He noted that there were matrimonial papers relating to the deceased's dissolved marriage to a Person L in 2002 but none relating to Person I. He remarked:

"The registration of the property […] [Property E], was, as you know, in the joint names of the deceased and [Person I] and was registered back in 1981 and it is [Person I] who presumably you met at these offices when her name was added to the TR1 and she signed the transfer in your presence. There's no note to that effect on the file nor trace of any ID for her and there's no ID for her in the client ID box for 2017 -2018. I telephoned [Person J] to see if he could help re [Person I] but he said that he had had no communication with her at that time or at all and did not have any number or address for her. He also mentioned that he did not meet with you but, because he was in London, it was all dealt with remotely. On the file, you do mention to [Person J] that you had spoken with [Person I]".

155. On 26 October 2020 Person I sent the Firm a formal letter of complaint. She noted that the TR1 effecting transfer of Property E purported to bear her signature had been witnessed by the Respondent whom she had never met. She noted that the Firm had *"dealt with a house I owned, without my knowledge or consent, and without accounting to me for the net sale proceeds".*

156. On receipt of the same, Mr Philpott once more emailed the Respondent. Noting the significance of the case – the fact of Person I's name being added in manuscript to the TR1, her role as the joint tenant and joint owner of the property inheriting by survivorship, her suggestion that she had never attended the Firm's office nor met the Respondent he observed *"I believe that you would or should have full recollection of this matter. Please therefore kindly be honest and upfront with us and let us know the circumstances of the signing of the transfer. We are having to report this as yet another insurance claim that's down to you but the circumstances of the transfer places this in a far more serious category where the circumstances will need to be reported, at the very least, to the SRA."*
157. In a reply sent on 27 October 2020 the Respondent repeated *"there is no way we would have accepted a signature from a third party without some ID and there would be no mileage in me letting the matter go through in such a manner in any event. I will help in any way I can but have given you my initial recollection in the first email sent.*

158. In a letter dated 26 October 2020 addressing the Client D matter, the Firm alerted the SRA to a potential "*forgery*" carried out in the TR1 prepared by the Respondent dated 1 February 2018.

159. On 3 November 2020 Person I reported the matter to the SRA. Person I has provided a witness statement for the purpose of these proceedings. It includes a copy of her signed passport: the signature is of two initials and a clearly legible surname; it is markedly different from the illegible purported signature on the TR1.

160. In subsequent correspondence with the SRA's Investigation Officer, the Firm has explained:

    160.1. if an identification (ID) check has to be carried out, the appropriate ID is taken from that person with copy of the ID documents being placed on the file, a copy placed in a general ID box file

    160.2. in such circumstances there would usually be a note on the file that ID evidence has been obtained.

161. Mr Philpott added in correspondence with the Investigation Officer that the Respondent

    "In the case of [Person I], Richard Cohen was adamant that this lady without notice turned up in the office announcing who she was and that she had documents to sign whereupon, according to Mr Cohen, he obtained ID from her, got her to sign the TR1 continuation sheet as joint transferor with him witnessing her signature. The Contract for sale was not signed by her – only by [Client E] but [Person I's] name was written by hand on the contract but not co-signed by her. Mr Cohen is adamant that he placed the ID on the file and also placed copy in the box file. Despite Mr Cohen's assurances, no copies were found either on the file or in the box."

162. He noted that there was no evidence of a visit from an individual purporting to be Person I; no record with reception nor the Respondent's secretaries and – albeit that he had not checked again – *"not even an attendance note of such an apparent visit not any attendance note on the system".* He noted that there was no electronic diary entry recording a visit – albeit that there might not have been in the event of an unannounced visit; further that there was no record of any discussion with Person I regarding her interest in the property. As he observed: "the transfer was completed and Mr Cohen simply accounted to Person J for the entire net proceeds of sale without reference to Person I".

Mitigation

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

163.1. The last few years of employment at Rudds was a very difficult time, following two offices merging into one. The office environment was messy and claustrophobic compared to the previous office space.

163.2. The Senior Partner retired due to illness and the Respondent considered that the remaining Partner lacked vision and the ability to support the business moving forward.

163.3. Staffing issues led to the Respondent taking on further matters that he considered he should not have had to do, as evidenced by the client files that form the subject matter of allegations 1.1, 1.2 and 1.3 which are litigation and probate matters; the Respondent was a conveyancing solicitor. The Respondent states that he was assured that the client files would be managed by others and his pleas to have the files transferred elsewhere were met with notes of advice on how to proceed.

163.4. During the relevant time, the Respondent had a young family at home and his financial position was uncertain from month to month.

163.5. The Respondent says that there was always an intention to complete the work for each individual client but the actions were an attempt to buy time. Although wrong to suggest to clients that matters were being progressed when they were not, the Respondent says that all cases were being worked on in some way in a hope to progress them to the position they should have been in.

163.6. There was no deliberate intention to be dishonest.

163.7. There was no intention for personal gain and no client was charged for any suggested work undertaken. All work was carried out without requests for funds on account.

163.8. The Respondent has cooperated fully with both the Firm and SRA investigations. The Respondent has assisted where appropriate with any insurance claims and queries raised by the Firm.

163.9. Whilst warranted, the Respondent's actions have limited his ability to work and have ended what was an otherwise unblemished career

163.10. The Respondent apologises for the distress caused by his actions and expresses a personal sadness as generally his relationships with these clients were good despite the ultimate outcome.

164. The above inclusion does not amount to adoption or endorsement of such points by the SRA.

Agreed Outcome

165. The Respondent agrees:

165.1. to be Struck-Off the Roll.

165.2. to pay costs to the SRA in the sum of £17,995.00.

166. 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 Respondent, the proposed outcome represents a proportionate resolution of the matter, consistent with the Tribunal's Guidance Note on Sanction (10th edition).

167. The Respondent has admitted dishonesty. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanctions" (10th edition), states that: "The most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see *Solicitors Regulation Authority v Sharma* [2010] EWHC 2022 (Admin))."

168. In *Sharma* [2010] EWHC 2022 (Admin) at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:

168.1. Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll … That is the normal and necessary penalty in cases of dishonesty…

168.2. There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances …

168.3. In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself, whether it was momentary … or over a lengthy period of time … whether it was a benefit to the solicitor … and whether it had an adverse effect on others…"

169. The Applicant has considered the relevant factors. In this regard it is submitted that:

169.1. The Respondent was fully culpable for the conduct. The Respondent had an obligation to his client's to furnish them with the full and correct information. Instead he chose to deliberately provide them with incorrect information. When asked to provide updates in matters, he maintained his lies by providing further information that he knew was untrue.

169.2. The dishonesty demonstrated by the Respondent occurred over three separate client matters.

169.3. The dishonesty demonstrated by the Respondent in all client matters was prolonged. In respect of the client matter which forms the basis of allegation 1.2 the dishonest conduct continued over a period of thirty one months.

169.4. The Respondent's conduct adversely effected the Firm and resulted in civil actions being brought against them. The Firm's indemnity insurance increased to the extent that it was no longer financially viable to continue operating and was the primary reason for the Firm's closure.

170. The Respondent admits that his conduct was dishonest and does not assert that exceptional circumstances which might justify a departure from the inevitable consequence of striking off arise in this case.

171. The Applicant considers that, in the context of the admitted misconduct, an immediate strike-off is the only appropriate sanction and will have an appropriate effect on public confidence in the legal profession and adequately reflects serious misconduct. The Parties consider that, in light of the admissions set out above, and taking due account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter which is in the public interest. These were serious acts of dishonesty and the case plainly does not fall within the small residual category where striking off would be a disproportionate

outcome. Accordingly, the fair and proportionate outcome in this case is for the Respondent to be struck off the Roll of Solicitors.

Signed by the parties:

The Respondent

Date:

For and on behalf of the Applicant

Date: 25.05.23