

IN THE MATTER OF OGHENEVOVO JOSHUA ATIKPAKPA, *RESPONDENT 2* – NAME  
*REDACTED*, solicitors, and JOSHUA & USMAN LEGAL SERVICES LIMITED,  
TRADING AS JOSHUA USMAN SOLICITORS (a recognised body)

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A Gaynor-Smith (in the chair)  
Mr R B Bamford  
Mr D E Marlow

Date of Hearing: 4th November 2004

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## **FINDINGS**

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Law Society by Jonathan Richard Goodwin of Jonathan Goodwin Solicitor Advocate of 17e Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT on 29th October 2003 that Ogheneovo Joshua Atikpakpa solicitor outh Croydon, CR2, *RESPONDENT 2* solicitor of, London, SW4 and Joshua & Usman Legal Services Limited trading as Joshua Usman Solicitors, a recognised body, whose registered was at Lord Denning Court, Grummant Road, London, SE15 5PZ might be required to answer the allegations set out in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The original application was made also against another solicitor respondent. During the course of the proceedings the Tribunal at an interim hearing consented to the withdrawal of the application in respect of that other respondent and no reference is made to the allegations relating to that respondent in these Findings.

The allegations were that Mr Atikpakpa and *RESPONDENT 2* had been guilty of conduct unbecoming a solicitor in each of the following particulars alleged against them and that Joshua & Usman Legal Services Limited had failed to comply with the rules and/or regulations applicable to it.

Allegations against Mr Atikpakpa, *RESPONDENT 2* and Joshua & Usman Legal Services Limited

- (i) Contrary to Rule 19 of the Solicitors Accounts Rules 1998 they transferred fees from client to office account without having delivered a bill of costs or other written notification of the costs incurred to the client;
- (ii) They withdrew money from client account other than as permitted as by Rule 22 (1) of the Solicitors Accounts Rules 1998;
- (iii) They failed to keep accounts properly written up for the purposes of Rule 32 (1) of the Solicitors Accounts Rules 1998;
- (iv) They failed to produce records and material held electronically to a person appointed by the Law Society contrary to Rule 34 of the Solicitors Accounts Rules 1998;
- (v) They utilised clients' funds for the purposes of other clients and/or third parties [at the hearing this allegation was withdrawn against *RESPONDENT 2* with the consent of the Tribunal];
- (vi) They utilised clients' funds for their own purpose.

Allegations against Mr Atikpakpa alone

- (vii) He misappropriated clients' funds, which for the avoidance of doubt was an allegation of dishonesty;
- (viii) He acted in a way that was fraudulent, deceitful or otherwise contrary to his position as a solicitor, in that he made a false mortgage application and/or supported such mortgage application by false and/or forged documentation;
- (ix) By virtue of the matters set out in the report of the Forensic Investigation Unit [*of the Law Society*], Mr Atikpakpa's conduct was contrary to Rule 1 of the Solicitors Practice Rules in that it compromised and was likely to compromise or impair any of the following, namely his independence or integrity as a solicitor, his good repute or that of the solicitors' profession or his proper standard of work.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Jonathan Richard Goodwin appeared as the applicant, Mr Atikpakpa did not appear and was not represented. *RESPONDENT 2* was represented by Ian Ryan solicitor of Bankside Law Solicitors, Thames House, 58-60 Southwark Bridge Road, London, SE1 0AS. Joshua & Usman Legal Services Limited was not represented.

Service of the proceedings upon Mr Atikpakpa

At a hearing on 17th June 2004 the Tribunal ruled that it would regard good service upon Mr Atikpakpa to have been achieved if notice of the proceedings were published in the Law Society's Gazette, the Times and a newspaper having a circulation in Lagos. The Tribunal had before it the advertisements published in the Law Society's Gazette and the Times. The Applicant was not sure that an advertisement had been placed in a newspaper in Lagos. He had had an exchange of communications by email but was concerned that the advertisement had not been placed owing to the fact that there had been a banking strike in Nigeria and it might have been because his payment had not been processed that his advertisement might not have appeared. He had no copy of any such advertisement.

In view of the seriousness of the allegations and the fact that Mr Atikpakpa was clearly aware of the Law Society's concerns evidenced by its intervention into the practice and the admissions that he had made to the Law Society's Senior Investigation Officer recorded in the papers, the Tribunal considered it right to proceed with the substantive matter against Mr Atikpakpa. The Tribunal also took into account the fact that *RESPONDENT 2* had attended for the substantive hearing having made a special journey from Egypt. It was right that the Tribunal should proceed as expeditiously as justice would allow with disciplinary proceedings, the matter had already been delayed in order to achieve service by advertisement. It was known that the Times newspaper had a wide circulation overseas. Mr Atikpakpa being aware of the Law Society's concerns himself had a duty to acquaint himself with the progress of the disciplinary proceedings. There were avenues open to Mr Atikpakpa to challenge the Tribunal's decision to proceed should he wish to do so.

The evidence before the Tribunal included *RESPONDENT 2*'s admission of allegations (i), (ii) and (iii) which were admitted on the basis of her strict liability as a partner but she denied that such matters amounted to conduct unbecoming a solicitor. *RESPONDENT 2* denied allegations (iv) and (v). Mr Briggs, a Law Society Senior Investigation Officer, gave oral evidence. A list of claims made upon the Law Society's Compensation Fund was handed up at the hearing.

At the conclusion of the hearing the Tribunal made the following orders:-

The Tribunal orders that the Respondent Ogheneovo Joshua Atikpakpa, solicitor, be struck off the Roll of Solicitors and they further order that he do pay the costs of an incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of the Investigation Accountant of the Law Society, subject to the contribution of *RESPONDENT 2*.

The Tribunal orders that the Respondent, *RESPONDENT 2* of London, SW4, solicitor, do pay a fine of £1,000, such penalty to be forfeit to Her Majesty the Queen, and they further order that she do pay a contribution towards the costs of and incidental to this application and enquiry fixed in the sum of £1,000 (inclusive of VAT).

The Tribunal orders that the status of the Respondent Joshua & Usman Legal Services Limited, recognised body trading as Joshua Usman Solicitors, be revoked forthwith and they further order that it does pay the costs of and incidental to this application and enquiry to be subject to a detailed assessment unless agreed between the parties to include the costs of Investigation Accountant of the Law Society, subject to the contribution of £1,000 by *RESPONDENT 2*.

**The facts are set out in paragraphs 1 to 36 hereunder:-**

1. Mr Atikpakpa, born in 1957, was admitted as a solicitor in 1998. *RESPONDENT 2*, born in 1962, was admitted as a solicitor in 1993.
2. At the material times Mr Atikpakpa and *RESPONDENT 2* (together with another partner) carried on practice in partnership under the style of Joshua & Usman Solicitors. The partnership was established on or about 1st October 1998. The solicitors practice was incorporated as Joshua & Usman Legal Services Limited on or about 25th January 2001. The company traded from that date under the style of Joshua & Usman solicitors from offices at Lord Denning Court, Grummant Road, London, SE15 5PZ.
3. Mr Atikpakpa was the chief executive and chairman of Joshua & Usman Legal Services Limited. *RESPONDENT 2* was a director of Joshua & Usman Legal Services Limited until about November 2002.
4. Joshua & Usman Legal Services Limited was “a recognised body”, that is to say recognised by the Law Society pursuant to Section 9 of the Administration of Justice Act 1985 and was subject to the Solicitors Incorporated Practice Rules 2001.
5. On 31st January 2003 the Law Society resolved to intervene into the practice of Joshua & Usman Solicitors on the grounds of suspected dishonesty on the part of Mr Atikpakpa. The intervention had the effect of suspending Mr Atikpakpa’s Practising Certificate but the Practising Certificate of *RESPONDENT 2* remained in force.
6. Joshua & Usman Legal Services Limited was in liquidation but no further details relating to the company were before the Tribunal.

Accounts breaches

7. The Forensic Investigation Unit of the Law Society carried out an inspection of the Respondents’ books of account commencing on 22nd January 2003. A copy of the Forensic Investigation Officer’s (the FIO’s) Report dated 29th January 2003 was before the Tribunal and Mr Briggs the FIO gave oral evidence at the hearing, to verify and amplify it.
8. An examination of the office and client bank account statements for the years 2001 and 2002 by the FIO, revealed a large number of round sum transfers from client to office bank account together with transfers back at a later date from office to client bank account. From July 2001 until the accounts were closed in December 2001, the firm had client and office accounts at Nat West Bank. Between July 2001 and December 2001 twelve improper transfers were made from client to office account totalling £165,524.73.
9. The firm also had client and office accounts at Bank of Scotland. Between 15th January 2002 and 24th October 2002 twenty five improper transfers were made from client to office account totalling £408,620.26.

10. During interview with the FIO Mr Atikpakpa asserted that the transfers would have been made in respect of disbursements or profit costs. A number of the transfers were in respect of two ledgers. Mr Atikpakpa said he could not produce those ledgers because he could not get the computer to work, so as to provide the appropriate information.
11. During the period 3rd January 2002 - 30th October 2002 twelve transfers of money back to client account from office account had been made totalling £172,064.04.
12. During interview with the FIO on 22nd January 2003 Mr Atikpakpa was asked about the transfer of £30,000 made on 3rd January 2002 from office to client bank account. He indicated that the money must have been wrongly paid to the office account and that this was a corrective transfer. On 27th January 2003 Mr Atikpakpa was asked why he had paid back the total sum of £172,064.04 to client bank account. He replied that the transfers were bound to be due to errors in paying monies to office account wrongly, and that any transfers to office account would have been pursuant to properly issued bills.
13. The firm had a cashier. On 23rd January 2003 the FIO requested the cashier to provide the bills book for 2002 and was told there was not a separate bills book. On 23rd January 2003 the cashier provided copies of all bills issued by the firm during 2002 which related to private paying clients, together with a list of those bills and the amounts received in cash from clients. The lists showed total bills to have been issued in the sum of £95,069.44 plus VAT and the sum of £99,129.47 had been received in respect of those bills. During interview on 27th January 2003. Mr Atikpakpa said that his cashier could not have provided all relevant bills. It was difficult to print bills from the computer system. It was not possible to provide a list of bills for 2002.
14. The FIO calculated that a minimum of £309,490.79 had been improperly transferred from client to office account during 2002.
15. It was put to Mr Atikpakpa during interview on 27th January 2003 that he had misused clients' funds to keep the office account afloat in that he had improperly transferred funds from client to office bank account when he was not entitled to raise bills for those monies. The FIO also made reference to the use of the word "loan" in the cash book. Mr Atikpakpa replied "That is not true. When I refer to a loan I am referring to the transfer of funds from office to client account, not that it came as a loan to office. I transfer clear errors to client account".
16. Mr Atikpakpa told the FIO that he would have been provided with figures for bills by his staff and he would then effect a transfer based on those figures. It was suggested to him that it was unusual that the amount was always an even amount, to which Mr Atikpakpa replied that the transfers would now have schedules attached showing the bill amounts but he was not sure how to print those off the computer system. The FIO found it difficult to accept that the transfers made by Mr Atikpakpa against invoices or bills always amounted to round sums. Mr Atikpakpa's response was "I have a problem with the staff. I have a responsibility and have to confirm what a staff member has to say. I ask for them to give an indication and just take it. Sometimes the figures are inaccurate. When I discover it I put it right ... It looks like we have

done really badly. In reality you have to consider the difficulty of dealing with different staff and relying on outside staff to deal with this”.

17. The firm acted for Mrs J in connection with the remortgage of her property at London E1 and also acted for her new mortgage, Birmingham Midshires.
18. On 5th September 2002 client bank account was credited with the sum of £155,975 from Birmingham Midshires, the net remortgage advance. The relevant client ledger showed that on 13th September 2002 the sum of £95,812.53 was paid to the Kensington Mortgage Company. The payment did not appear on the firm’s cash book and was not received by Kensington Mortgage Company.

#### Liabilities to clients

19. On 23rd January 2003, the FIO was provided with a list of liabilities to clients as at 31st December 2002, totalling £38,440.32. In view of his earlier findings, the list was not considered to be reliable.
20. The FIO was able to establish that a minimum shortage of £95,812.53 did exist in respect of the matter of Mrs J alone as at 31st December 2002. The firm had not redeemed Mrs J’s mortgage on completion and at that date there were no funds available in client account of £95,812.53. During interview on 27th January 2003 Mr Atikpakpa indicated he would not accept the minimum shortage and said “I am very concerned some monies are missing somehow”.
21. During interview on 27th January 2003 Mr Atikpakpa indicated in relation to this matter that “the money was transferred I had a number of transactions at the time and money was transferred. During the next period there was some confusion as to whether it was sent or not. In November I concluded it had not left the office and I authorised them to pay it before I left the office for a period of two and a half months. I have had problems with staff and it was not paid”.
22. Mrs J had written to the firm on 27th November 2002 indicating that the Kensington mortgage had not been discharged. No action appeared to have been taken thereafter. Freemans Solicitors had written a letter dated 16th January 2003 on behalf of Mrs J. The payment was not marked as outstanding on the client account reconciliations for October, November and December 2002. In each of those months, there were insufficient funds standing to the credit of client bank account to enable the payment to be made. Mr Atikpakpa said he had not looked at the reconciliations for November and December as he was away from the office.
23. There was in Mrs J’s client matter file a photocopy of a client account cheque dated 17th January 2003 number 000485 made payable to Kensington Mortgage Company on 20th January 2003. The cash book did not show any payment into client account to enable that amount to be paid. During interview on 27th January 2003 the FIO asked Mr Atikpakpa why monies had not been paid in or transferred to cover the cheque to Kensington. His response was “I am expecting money in to cover that. Kensington are not very co-operative and I asked them to let me know they had it. They say there was a shortfall of some £442 and they are looking into it. When they

call I will put it back. I have £95,000 I can transfer in there". The shortage on client account of £95,812.53 had not been replaced.

24. The FIO did not speak with *RESPONDENT 2* during his inspection.

Providing false wage slips - Mr Atikpakpa

25. The FIO had exhibited to his Report three wage slips prepared for Mr Atikpakpa. They show him as having a net salary of £29,697.00, £31,507.39 and £31,962.00 for the months of April, May and June 2001 respectively.
26. The pay slips were supplied to the Law Society by Igroup, a company which made complaint against Mr Atikpakpa. Igroup confirmed that the pay slips were supplied to them in support of Mr Atikpakpa's application for a personal mortgage.
27. The firm's cash book for April to June 2001 did not show those amounts being paid to Mr Atikpakpa. During interview on 27th January 2003 the FIO produced the pay slips to Mr Atikpakpa and asked him to comment. He replied "This is for the end of the year. You can see in the cash book what is paid". The FIO read the slips to Mr Atikpakpa and said that they purported to pay him in excess of £30,000 per month, to which Mr Atikpakpa replied "They are false".
28. The FIO asked Mr Atikpakpa why he had submitted the pay slips to Igroup in support of his personal mortgage application, in response to which he asked where the FIO had got the slips from and said "I can't remember submitting those to Igroup, but I won't say one way or the other".
29. In view of the matters contained within the FIO's Report the Law Society resolved, on 31st January 2003, to intervene into Joshua & Usman Solicitors.

Mr Atikpakpa - allegation of false mortgage application

30. By letter dated 3rd January 2002 Igroup Limited made a complaint to the Law Society concerning the conduct of Mr Atikpakpa in relation to a personal mortgage application made by him. The application to Igroup Limited was for a mortgage advance of £1.62m. The purchase price of the property that Mr and Mrs Atikpakpa were minded to purchase was said to be £2.95m. The balance of the purchase price was to be met from Mr Atikpakpa's savings.
31. The Igroup also provided to the Law Society a copy of a NatWest reserve account statement that Mr Atikpakpa had produced and put forward as being his own personal account balance. It showed a balance of £982,334.41. There was concern that the document revealed a number of irregularities. Igroup contacted NatWest Bank and provided them with a copy of the reserve account statement. The Law Society contacted the Investigation and Fraud Section of the Royal Bank of Scotland a representative of whom, by letter dated 26th March 2002, said "I confirm that where indicated on the attached document, the font used on the copy statement forwarded to ourselves is inconsistent to that used by NatWest Bank".

32. By letter dated 19th April 2002 the Law Society wrote to Mr Atikpakpa seeking his explanation in relation to the complaint by Igroup Limited. He did not reply or provide his explanation. The Law Society wrote again by letter dated 13th May 2002 seeking explanation.
33. Mr Atikpakpa replied by letter dated 14th May 2002. He indicated that he had requested details from his financial consultant and would revert to the Law Society once he had more details. He added that the allegation “is most likely to be baseless and completely misleading. I hope to be in a position to deal fully with the allegation in the next fortnight”.
34. By letter dated 19th June 2002, having received no further explanation from him, the Law Society wrote to Mr Atikpakpa requesting an adequate and satisfactory explanation in relation to his conduct.
35. By letter dated 21st June 2002 Mr Atikpakpa replied indicating that he had made no application direct to Igroup Limited. He explained that the lender bank was Bank of Scotland and that he had purchased a number of properties through the “buy-to-let scheme”. He made reference to a number of litigation matters involving the complainant and asserted that the complaint was a result of “sour grapes”.
36. No further letter had been received from Mr Atikpakpa who was believed to have gone to Nigeria. His precise whereabouts were not known.

### **The Submissions of the Applicant**

37. Mr Atikpakpa was the sole equity partner in the firm of Joshua & Usman Solicitors. He was the only person to benefit from the profits. It was accepted that he was the person in control of the firm. Mr Atikpakpa had behaved with gross dishonesty.
38. All partners in a firm, or directors of a limited company being a recognised body, are responsible for full and complete compliance with the Solicitors Accounts Rules. Those who were partners or directors were listed on the firm’s letterhead. No distinction was made between equity and salaried partners and the letterhead demonstrated to the world at large that those whose names appeared on the letterhead had liability for compliance with all regulatory matters.
39. The Applicant made no allegation of dishonesty against *RESPONDENT 2*.
40. Partners in solicitors’ firms and directors of recognised bodies had a high responsibility to ensure compliance with the Solicitors Accounts Rules and regulatory matters generally. They were fixed with strict liability in compliance with the Solicitors Accounts Rules. It was recognised that solicitors became partners for many reasons. When becoming a partner, a solicitor had a responsibility to carry out the responsibilities required at a very high level. There were concomitant benefits.
41. There was some question as to whether the Respondent against whom allegations had been withdrawn, who was also a salaried partner, should be treated differently from *RESPONDENT 2*. That Respondent had not been a signatory on the firm’s accounts



and her position had been distinguishable from the positions of Mr Atikpakpa and *RESPONDENT 2*. The Law Society's Adjudicator had found the explanations offered by her to be both reasonable and satisfactory. *RESPONDENT 2* had been a signatory on the firm's accounts and, indeed, her name formed of part of the title of the firm. It was right that the respective positions of the other Respondent and *RESPONDENT 2* should be distinguished. *RESPONDENT 2* should have ensured that she had a greater involvement in what was going on at the firm. She had been qualified as a solicitor for a greater number of years than had Mr Atikpakpa.

42. The Tribunal was invited to find that Mr Atikpakpa's dealings with clients' money had been dishonest and the Tribunal was invited to apply the tests in Twinsectra -v- Yardley and Others [2002] UKHL 12: first, would the public knowing the facts of the matter conclude that what this solicitor did was dishonest, and did Mr Atikpakpa know that what he was doing was wrong?
43. It was a matter for concern that Mr Atikpakpa had effected round sum transfers in relation to disbursements and/or profit costs which were unsupported by the client ledgers or bills delivered. The figure involved for the year 2002 was approaching £310,000. His attitude demonstrated an irresponsible disregard for the Solicitors Accounts Rules and the integrity of clients' funds.
44. There had been a number of claims made upon the Law Society's Compensation Fund.
45. *RESPONDENT 2* had made some admissions. The Tribunal was invited to find that she had been guilty of conduct unbecoming a solicitor. It was accepted that *RESPONDENT 2* had not been a director of Joshua & Usman Legal Services Limited at the date of the Law Society's inspection of the firm; the Applicant had not pursued allegation (iv) against her; *RESPONDENT 2* had denied allegation (v), but the Tribunal was invited to conclude that she had in all of the circumstances, together with Mr Atikpakpa and Joshua & Usman Legal Services Limited, utilised clients' funds for her own purposes when monies were improperly transferred from client to office account. In the submission of the Applicant, *RESPONDENT 2* had been guilty of conduct unbecoming a solicitor.

### **The Submissions of *RESPONDENT 2***

46. *RESPONDENT 2* admitted allegations (i), (ii) and (iii) on the basis of her strict liability as a partner/director. She could not avoid that responsibility but the circumstances in which the allegations against her arose could not lead to a finding that she had been guilty of conduct unbecoming a solicitor, which was conduct that was dishonourable, disgraceful or liable to bring the profession into disrepute.
46. In support of her submission that she was not guilty of conduct unbecoming a solicitor *RESPONDENT 2* invited the Tribunal to take into account the following matters.
47. *RESPONDENT 2* was a salaried partner and her position had been entirely distinct from that of Mr Atikpakpa. She was effectively in the position of an employee. She had no involvement in the running of the accounts department, neither did she have

access to the bank accounts or bank statements, indeed she had been refused access by Mr Atikpakpa.

48. The FIO had noted that Mr Atikpakpa was responsible for maintaining the books and records and he had overall responsibility and control over the accounting records. Any differences in the reconciliations were referred to “The Boss”, namely Mr Atikpakpa.
49. Whilst it was accepted that *RESPONDENT 2* had strict liability there was not a shred of evidence of personal culpability. *RESPONDENT 2* had not been mentioned in the FIO’s report and the FIO himself confirmed that he had not spoken with *RESPONDENT 2*. This was not a situation where *RESPONDENT 2* “turned a blind eye” to what was going on.
50. *RESPONDENT 2* found herself in partnership with a dishonest solicitor who concealed his activities. Those activities had not been uncovered upon an earlier inspection by the Law Society when a clean bill of health had been given to the firm. At the time when the clean bill of health was given a number of improper transfers had already been made.
51. The firm’s Reporting Accountants had filed Annual Accountant’s Reports which could only have given confidence to a salaried partner that the firm’s accounts were in good order and that Mr Atikpakpa could be trusted.
52. *RESPONDENT 2* herself was a victim of Mr Atikpakpa’s fraudulent activities although this was unknown to her in 2002. It would be grossly unfair to punish one of the salaried partners and not the other. The Law Society had rescinded the referral of the other salaried partner to the Tribunal. *RESPONDENT 2* had had no opportunity to make representations against referral to the Tribunal as the Law Society’s intervention resolution effectively removed her right of review.
53. The Law Society had been put on notice of Mr Atikpakpa’s fraudulent activities in January of 2002 but took no action before the inspection one year later in 2003.
54. In a recent complaint by Mrs E, the Law Society had recommended that Mr Atikpakpa alone be referred to the Tribunal.
55. *RESPONDENT 2* had not personally utilised clients’ funds for her own purposes. She had no knowledge of any of the improper transfers and could not have known of them. *RESPONDENT 2* could not be guilty by mere association with Mr Atikpakpa. The improper transfers were positive acts by Mr Atikpakpa and did not receive any benefit from improper transfers.
56. The Tribunal was invited to take the view that *RESPONDENT 2* had not come remotely close to misconducting herself.
57. With regard to allegation (iv), which *RESPONDENT 2* denied, it was said that she had failed to produce records to the FIO. All requests for the production of records had been made by the FIO to Mr Atikpakpa only. The FIO could not recall having spoken to *RESPONDENT 2* but recalled that she had been sometimes in the office.

*RESPONDENT 2* had not been asked to produce any documents and could not be said to have failed to have produced documents when none had been requested of her. If the allegation had been put as a matter of joint and several liability, *RESPONDENT 2* was not a partner at the time when the requests for documents were made. There was no evidence before the Tribunal which would allow it to make a finding that allegation (iv) had been substantiated against *RESPONDENT 2*.

### **The Mitigation of *RESPONDENT 2***

58. *RESPONDENT 2* was 42 years of age and had remarried and gone to live in Egypt since the unfortunate events before the Tribunal. She had taken the allegations made against her with the utmost seriousness and, indeed, had travelled to the UK from Egypt in order to instruct her representative and attend the disciplinary hearing. She had very properly recognised her strict liability for breaches of the Solicitors Accounts Rules.
59. *RESPONDENT 2* had responded fully, candidly and intelligently to correspondence addressed to her by her professional body. Her behaviour, in the light of the very unfortunate events in which she found herself, embroiled had in all respects been exemplary.
60. *RESPONDENT 2* accepted that she was a joint signatory with Mr Atikpakpa to operate all the accounts of Joshua & Usman Limited. She became a signatory to the accounts in May or June of 2002. She had never been given full access to the accounting records. She had requested access to the accounts but Mr Atikpakpa had been very determined that the accounts records should remain his responsibility. *RESPONDENT 2* had been concerned about that approach but accepted that the accounts managed by him had been inspected by the Law Society and an on-site certificate of compliance had been given. She also accepted Mr Atikpakpa's argument that as a chief executive and chairman it was necessary for him to have managing control of the accounts, not only because he maintained the accounts in full compliance but also because he was head of conveyancing. The conveyancing department was responsible for almost 95% of all transactions in client account. It was important that client account was overseen by someone who had a firm grasp of what was happening in conveyancing.
61. *RESPONDENT 2* undertook work in the landlord and tenant field and litigation. She only handled the accounts on the rare occasions when Mr Atikpakpa was not in the country. She considered that the reasons why she did not have full access to the accounts were sound and reasonable.
62. *RESPONDENT 2* had been the sole signatory of the client account at the South Islington Law Centre for a number of years when there was never any question of monies going missing. *RESPONDENT 2* herself had told the Law Society that the other Respondent (against whom disciplinary proceedings were not prosecuted) had never had any access to the client or office accounts.
63. *RESPONDENT 2* had expressed regret to the Law Society that it did not put the salaried partners on notice when it became aware of the issue of the fraudulent wage

slips, as the salaried partners might then have been able to prevent some of the breaches that had subsequently occurred.

64. *RESPONDENT 2* had joined Joshua & Usman in November 1999 as an associate solicitor. She preferred to work in the voluntary sector. When South Islington Law Centre closed in September 1999, she decided to accept a job with Joshua & Usman as she was a single parent and her childcare arrangements were paramount. Mr Atikpakpa was her brother-in-law and had made it clear that she could work around the needs of her children.
65. Mr Atikpakpa had approached *RESPONDENT 2* and others to become salaried partners. He had explained that he wanted to attract business from America and to do that needed more partners on the firm's letterhead. They agreed. There was no partnership document. Everything remained the same with regard to the terms of employment and salary. In late 2000 Mr Atikpakpa decided to dissolve the partnership as he wanted to trade as a limited company. All the staff, including *RESPONDENT 2*, had to reapply for their jobs or be made redundant. By July 2001 the partnership had been dissolved. *RESPONDENT 2* had not been involved in the formation of Joshua & Usman.
66. *RESPONDENT 2* was made a director and given a new contract of employment in Joshua & Usman Legal Services Limited. She had no shares in the company. Initially she had no access to client account. About April 2002 *RESPONDENT 2* gave notice to Mr Atikpakpa of her intention to leave the firm as she was getting married and would be leaving England. In the middle of 2002 Mr Atikpakpa asked *RESPONDENT 2* to become a signatory to the accounts. The reason for this was that Mr Atikpakpa was frequently out of the country. He was concerned that he might not be able to effect conveyancing completions if his computer terminal failed to connect while he was abroad.
67. *RESPONDENT 2*'s operation of client account was strictly limited to effecting transfers on conveyancing completions during Mr Atikpakpa's absence. She made no more than a total of eight transfers. *RESPONDENT 2* was unfamiliar with the area of conveyancing and only effected transfers when she was presented with a bill from the conveyancing solicitor and upon checking with the bank that the stated sums had arrived from the stated persons. She then had to call the bank the next working day to ensure that the money had left the account and been transferred into the correct account. The system was laborious as she did not have access to the accounts. The company had internet banking but Mr Atikpakpa refused her request for access to this.
68. *RESPONDENT 2* remarried in October 2002. The occasion was attended by most of the staff and Mr Atikpakpa was the best man. In November 2002 *RESPONDENT 2* ceased to be a director. She had commenced proceedings in the High Court for leave to remove her children permanently from the jurisdiction. She had reduced the hours she worked at the office as she was concentrating on the impending litigation, which was opposed by her ex-husband. She had been in Egypt trying to get permission from the British Embassy for her husband to attend the High Court hearing when the Law Society's intervention took place.

69. The Forensic Investigation Officer's Report represented the tip of an iceberg. By mid 2003 it had become apparent that Mr Atikpakpa had been involved in mortgage fraud and his main target had been not the general public but *RESPONDENT 2* and her family. Over 90% of the missing client money was stolen from *RESPONDENT 2* and from members of her family. The missing money and unexplained transfers related to Mr Atikpakpa's attempts to hide his numerous mortgage frauds.
70. *RESPONDENT 2* had purchased a property. Joshua & Usman acted in the purchase in 2000. When *RESPONDENT 2* decided to remortgage her house to buy another house she instructed Joshua & Usman Legal Services Limited. She raised a loan of £168,000 for the deposit and to redeem the existing mortgage. A member of staff dealt with the conveyancing under the supervision of Mr Atikpakpa. The case followed the normal practice in the conveyancing department of the file being handed to Mr Atikpakpa in order to complete the final transfer. He had notified *RESPONDENT 2* that the matter had been concluded. Subsequently *RESPONDENT 2* discovered that her Abbey National mortgage had not been redeemed. The file relating to her property and the deeds were missing. The missing mortgage money led to a caution being registered against *RESPONDENT 2*'s home. She had been forced to clear thousands of pounds of arrears on the Abbey National mortgage or face repossession. She found herself in a situation where she had negative equity on her home because of two mortgage charges and there was also a caution on the property. The deeds had not been located.
71. Following the intervention the Law Society obtained a freezing order on all of Mr Atikpakpa's properties. At that point *RESPONDENT 2*'s sister and nephew discovered that the property Mr Atikpakpa had sold to them remained registered in Mr Atikpakpa's name. It transpired that Mr Atikpakpa had first sold the property to *RESPONDENT 2*'s sister. She purchased the property with the assistance of a mortgage. Mr Atikpakpa then sold the same property to *RESPONDENT 2*'s nephew. He also purchased the property with the aid of a mortgage. When Mr Atikpakpa sold the property to *RESPONDENT 2*'s sister he did not redeem his outstanding mortgage. He then carried out the same deception on *RESPONDENT 2*'s nephew. As Mr Atikpakpa remained the registered owner and had ceased paying his mortgage instalments the property was repossessed in November 2003. It was likely that the money subsequently used to redeem Mrs J's mortgage came with from *RESPONDENT 2*'s mortgage advance or her nephew's mortgage advance monies.
72. *RESPONDENT 2*'s sister appeared to have been the main victim of Mr Atikpakpa's mortgage frauds.
73. Mr Atikpakpa had sold another house to *RESPONDENT 2*'s sister. The mortgage advance monies had been sent to Joshua & Usman but the property was never transferred to *RESPONDENT 2*'s sister. She spent a lot of money carrying out works and paying the mortgage. After the intervention and the freezing order the fraud became apparent. The file and the title deeds were missing. The house was repossessed. The frauds against *RESPONDENT 2*'s sister involved hundreds of thousands of pounds.
74. *RESPONDENT 2*'s mother, a pensioner, was persuaded by Mr Atikpakpa to transfer her home to him so that he could raise money on the house to carry out necessary

conversion and repairs. The outstanding mortgage before the transfer was £37,000. The transaction was protected by Deed of Trust. Following the intervention it had been discovered that Mr Atikpakpa had not completed a conversion but had raised £220,000 mortgage on the property. The file and the deeds were missing. The situation had caused a great deal of stress to *RESPONDENT 2*'s elderly mother.

75. Mr Atikpakpa had been a trusted and loved member of the family and he had used his position of trust as their solicitor to damage and steal from the family. The situation had caused devastation to the family who would be in litigation for many years in an attempt to rectify the damage done.
76. *RESPONDENT 2* believed that she had always behaved correctly and had never abused the public's trust in the solicitors' profession. She had never taken client money. She had been the victim of theft and a complete abuse of trust by Mr Atikpakpa. The reality was that she was being punished for the actions of another where she and her family had been his victims.

### **Costs**

#### The Submissions of the Applicant

77. The Applicant sought an order for costs. There were a number of issues which had to be resolved and he was not able to provide a figure. The FIO's costs were £4,733.70 and the disbursements were large, in the main because of the need to advertise the disciplinary proceedings against Mr Atikpakpa, and amounted to £2,763.80. The Tribunal was invited to make a costs order subject to a detailed assessment in respect of the legal costs. The Tribunal was invited also to consider an apportionment between the two Respondents.

#### The Submissions of *RESPONDENT 2*

78. In view of the unfortunate position of *RESPONDENT 2* the Tribunal was invited to make no order for costs against her. In view of its findings that allegations against *RESPONDENT 2* had been substantiated, the Tribunal would impose a sanction. *RESPONDENT 2* had not been culpable. *RESPONDENT 2* had behaved impeccably with regard to the disciplinary proceedings. She had no income of her own. She had travelled from Egypt to the UK to instruct her representative and also to attend the hearing. She had taken the matter seriously enough to instruct a representative. In all of the circumstances it was appropriate that the Tribunal should make no order for costs.

### **The Findings of the Tribunal**

79. The Tribunal found all of the allegations against Mr Atikpakpa and Joshua & Usman Legal Services Limited trading at Joshua Usman Solicitors to have been substantiated.
80. The Tribunal found allegations (i), (ii) and (iii), which were admitted by *RESPONDENT 2*, to have been substantiated. The Tribunal had given careful

consideration to *RESPONDENT 2*'s submission that she had not been guilty of conduct unbecoming a solicitor in respect of any of those matters. However the Tribunal took the view that it followed from a finding that such allegations had been substantiated that it was led to conclude that she had in respect of those matters also been guilty of conduct unbecoming a solicitor.

81. The Tribunal accepted that the Law Society had withdrawn allegation (v) against *RESPONDENT 2*. The Tribunal did find allegation (vi) to have been substantiated, namely that *RESPONDENT 2* utilised clients' funds for her own purpose. It was an inevitable consequence of the improper transfers that clients' money was in office account when it should not have been. The fact that clients' money had been utilised could not be avoided. In so saying, the Tribunal wished to make it very plain indeed that this was a de facto situation which arose from the improper treatment of clients' monies for which Mr Atikpakpa had been entirely culpable. His serious and deliberate dishonest use of clients' money was to be contrasted with the way in which this allegation had been found to be substantiated against *RESPONDENT 2*. This was the result of the state of affairs which existed and not because of any impropriety or culpability.

### **The Decision of the Tribunal and Reasons**

82. The Tribunal having found the allegations substantiated against Mr Atikpakpa finds that he has behaved dishonestly. There can be no doubt that Mr Atikpakpa has used his position as a solicitor deliberately and cynically to steal large sums of clients' money, a substantial proportion of which belonged to *RESPONDENT 2* and members of her family. Such behaviour seriously damages the good reputation of the solicitors' profession and it is right both for the protection of the public and for the protection of the good reputation of the solicitors' profession that Mr Atikpakpa be struck off the Roll of Solicitors.
83. Mr Atikpakpa was the controlling partner in the solicitors' firm and chief executive and managing director of the company which was a recognised body. It was right that Mr Atikpakpa and Joshua & Usman Legal Services Limited should bear the lion's share of the costs incurred by the Applicant.
84. *RESPONDENT 2* had found herself in the most unfortunate circumstances. She was, however, a solicitor with some years' experience. A solicitor who enters a partnership, albeit on a salaried basis, must do so with his or her eyes wide open. Being a solicitor and a partner is a privilege and brings certain benefits. However, such privilege and benefits carry a correlative heavy burden of liability and responsibility. These liabilities and responsibilities cannot be ignored or abrogated.
85. A solicitor who enters into partnership, immediately becomes liable for compliance with the Solicitors Accounts Rules. If he or she does not have full access to the firm's accounts including their management, he puts himself in a vulnerable position.
86. The Tribunal has taken into account the fact that *RESPONDENT 2* believed Mr Atikpakpa to be an honest and honourable man; that he was a member of her family;

that she took comfort from a satisfactory Law Society inspection; and the fact that the firm had complied with the requirement to file Accountant's Reports.

87. The Tribunal has also given *RESPONDENT 2* credit for the way in which she conducted herself in connection with the Law Society's investigation and these disciplinary proceedings. The Tribunal does, of course, make no finding of dishonesty or impropriety in respect of *RESPONDENT 2*, indeed none was alleged against her. However, the Tribunal feels that it is right to make sure that members of the solicitors' profession are not led to believe that they can enter partnership without accepting the full liabilities and responsibilities which go with that status, whether salaried or otherwise. In this case *RESPONDENT 2* was a more senior member of the profession than Mr Atikpakpa.
88. In view of the great difficulties suffered by *RESPONDENT 2* the Tribunal has set a financial penalty at a very low level, but has considered it necessary to impose a financial penalty, in order to demonstrate that a salaried partner cannot escape liability for breaches of the Solicitors Accounts Rules.
89. The Tribunal imposed a fine of £1,000 upon *RESPONDENT 2*. Taking into account the absence of culpability on her part the Tribunal concluded that it would be appropriate and proportionate in all the circumstances to order *RESPONDENT 2* to pay £1,000 inclusive of VAT towards the Applicant's costs.
90. It was right that the recognition by the Law Society of Joshua & Usman Legal Services Limited as a recognised body be revoked.
91. The balance of the costs, to include the costs of the FIO, to be subject to a detailed assessment (if not agreed between the parties) to be paid by Mr Atikpakpa and Joshua Usman Legal Services Limited on a joint and several basis.

Dated this 29th day of November 2004  
On behalf of the Tribunal

A Gaynor-Smith  
Chairman