No. 9246-2005

IN THE MATTER OF JEFFREY PETER LYGOE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr P Haworth (in the chair)
Miss T Cullen
Mr M G Taylor CBE

Date of Hearing: 6th April 2006

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Law Society by Ian Paul Ryan, solicitor and partner in the firm of Bankside Law Solicitors, Thames House, 58 Southwark Bridge Road, London, SE1 0AS on 25th April 2005 that Jeffrey Peter Lygoe, solicitor of Little Venice, London, W9 might be required to answer the allegations contained in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegations were that the Respondent had been guilty of conduct unbefitting a solicitor in each of the following particulars, namely:-

(i) That he failed to keep accounts properly written up for the purposes of Rule 32 of the Solicitors Accounts Rules 1998 (the 1998 Rules);

(ii) That he withdrew money from client account in breach of Rule 22 of the 1998 Rules;

(iii) That he failed to send clients written notification of costs in breach of Rule 19(2) of the 1998 Rules;

(iv) That he wrongly paid into office account sums recovered by way of costs from third parties in legally aided matters contrary to Rule 21(2) of the 1998 Rules;

(v) That he deliberately and improperly utilised clients' funds for his own benefit;

(vi) That he failed to disclose material information to clients;

(vii) That he failed to act in the best interests of a client;

(viii) That he failed to advise a client to seek independent legal advice;

(ix) That he acted improperly in a conflict of interest situation;

(x) That he failed to have due regard to funds that were paid into and out of his client account.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Ian Paul Ryan appeared as the Applicant and the Respondent was represented by Mr Kapoor of Counsel. The evidence before the Tribunal included the oral evidence of Mr Sage and Miss Hogg, from the Law Society's Forensic Investigations Department. The Respondent admitted the allegations (save for that part of allegation 3 which related to the client Mr I) on the basis that he had been guilty of "technical breaches". The Respondent denied that he had been dishonest. The Applicant made no allegation of dishonesty in respect of allegation 4.

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

The Tribunal Orders that the Respondent Jeffrey Peter Lygoe of Little Venice, London, W9, solicitor, be struck off the Roll of Solicitors and it further Orders that he do pay the costs of the Investigation Accountant of the Law Society in the sum of £11,519.26 and the applicant's costs fixed in the sum of £5,000.

The facts which were not disputed are set out in paragraphs 1 to 86 hereunder:-

1. The Respondent was born in 1946 and was admitted as a solicitor in 1971. At all material times he carried on in practice in partnership under the style of David Parry & Co Solicitors at 9 Palmer's Avenue, Grays, Essex, RM17 5TX. The firm had two other offices at 1 New Square, Lincoln's Inn, London, WC2A 3SA and at 74 Highfields Road, Highfields Caldecote, Cambridge, CB3 7NX. The Respondent had now retired from the practice. At the material time the Respondent's partner was a salaried partner operating separately from his home address in Cambridge.

2. Upon due notice the Investigation Officer (the IO) of the Law Society carried out an inspection of the Respondent's firm's books of account. His written Report was before the Tribunal and he gave oral evidence.

3. The IO's Report revealed that one set of books maintained for all three offices was not in compliance with the Solicitors Accounts Rules.

4. A list of liabilities to clients as at 31st July 2003 was produced for inspection which totalled £520,285.22. The items on the list were in agreement with the balances shown in the clients' ledger but the list did not include further liabilities to clients totalling £149,133.70 and US$505,174.21, which were not shown by the books. It was established that the US dollar amount related to a single client and was explained. There remained a cash shortage of £149,133.70.

5. The Respondent did not agree that there was this cash shortage because he did not agree that certain bills had not been delivered to the clients concerned. The Respondent did agree a cash shortage of £119,487.71, which he said had been replaced in full during September 2003 by transfers from office to client bank account totalling £63,742.42 together with payments made from office bank account, including Counsels' fees of £55,745.29.

6. The IO explained that cash shortage figure of £149,133.70 arose because of incorrect transfers from client to office bank account totalling £102,135.03 and because there were sums due to the Legal Services Commission totalling £46,998.67 which, incorrectly, had been retained in the firm's office account.

7. During the period from 10th July 2002 to 1st July 2003, incorrect transfers from client to office bank account were made on account of five individual client matters the details of which were:-

W & others	£64,171.86
Mrs I (probate)	23,500.00
L	11,413.17
MC	1,925.00
T	1,125.00
	£102,135.03

In his Report the IO exemplified the matters of W and others and Mrs I (probate).

W and Others

8. The Respondent's firm acted for those clients in a litigation matter. The relevant account in the clients' ledger showed, inter alia, two transfers from client bank account to office bank account of £68,784.43 and £1,215.57 on 23rd April 2003 and 28th April 2003 respectively.

9. These transfers were for the firm's costs and disbursements including at least £64,171.86 in respect of Counsels' fees. Counsels' fees remained unpaid at 31st July 2003. The ledger account showed that three office account cheque payments dated 11th April 2003 and totalling £82,015 had been made in respect of Counsels' fees. The cheques had not been sent out. The cash shortage which resulted was corrected with others in September 2003 and when Counsels' fees were actually met. The IO pointed out that this cash shortage remained in existence for more than five months.

10. A significant cash shortage had existed for a considerable period in respect of this matter. The relevant ledger account showed the lodgement of £29,375 in client account on 28th January 2002 being funds received on account of Counsel's fees.

Part of these funds was incorrectly utilised for the payment of the firm's costs and other disbursements on 29th January 2002 and 5th February 2002. The remainder was incorrectly transferred from client to office bank account on 5th March 2002, resulting in a credit balance of £27,769.99 on the office column of the clients' ledger account at that date.

11. This credit balance was subsequently eliminated when the account was charged with an office account cheque payment of £29,375 dated 26th March 2002 in respect of Counsels' fees. However that cheque was not sent out and was cancelled on 11th April 2003, when the three cheques referred to above were issued, but not sent out.

12. No fee note from Counsel was produced. A later fee note from Counsel indicated that only a few hours work had been completed by him prior to 26th March 2002, raising a query as to the propriety of the cheques drawn for Counsel's fees.

13. The Respondent explained that office account cheques in respect of Counsels' fees had been raised on many matters and that the cheques had not been sent out. He accepted that many such cheques were subsequently cancelled and sometimes reissued. He explained that this had been done in order to record the 'cost' on the relevant client ledger account to enable the fee earner to advise the client of the full amount of funds required in each matter. He accepted that payments should not have been recorded until actually made.

14. In this client matter there had been a continuous cash shortage on client bank account between January 2002 and September 2003 in amounts varying from £29,375 to £70,000.

Probate of Mrs I

15. The Respondent's firm acted for the personal representatives of the late Mrs I. The following sums were received when assets were realised:-

Date	Details	Amount
09.07.2002	Allied Dunbar	£38,939.77
15.07.2002	Scottish Amicable	15,981.33
18.07.2002	National Savings Certificates	32,705.24
20.07.2002	NatWest - Account closed	7,760.14
01.08.2002	Nationwide Building Society	22,433.31
		£117,819.79

16. The relevant account in the clients' ledger showed the following transfers from client to office bank account in respect of the firm's costs:-

Date	Amount
10.07.2002	£5,000.00
29.07.2002	7,500.00
06.08.2002	8,813.00
27.11.2002	35,250.00
	£56,563.00

17. For each of the above transfers the ledger account showed a corresponding bill of costs on or about the same date. All of these bills were cancelled by credit notes dated 21st January 2003 in the same amounts. The ledger account showed also on 21st January 2003 an "interim bill" in the sum of £23,500, being £20,000 plus VAT, together with a transfer from office to client bank account of £26,913.

18. There was no evidence that any of the bills had been delivered to the clients. The IO concluded also that there had previously been a cash shortage of £56,563 from 27th November 2002 until 21st January 2003 on this account, and cash shortages of varying amounts at other times.

19. The Respondent accepted that none of the bills had been sent to one personal representative but they had been provided to the other. The personal representatives were brother and sister and the Respondent had expected one to advise the other. He also pointed out that the bills did not relate only to the probate matter. The firm acted separately for one of the personal representatives in several litigation matters. All of the matters had become "intertwined": the firm's costs had been charged to the wrong account at times but it would "all be sorted out in the end". Bills had been cancelled and credit notes drawn to rectify this. The client had agreed that funds could be taken from his late mother's estate to fund his litigation matters. The Respondent had not obtained written authority to do so from either personal representative. A retrospective authority was obtained following a specific request by the Law Society's Practice Standards Unit in January 2003. The IO pointed out that the terms of the authority were vague.

20. The Respondent explained that credit notes dated 21st January 2003 which cancelled the bills totalling £56,563 were raised to enable transfer of appropriate costs from the probate account to the litigation matters account. The earlier bills were replaced by two interim bills dated 21st January 2003, one for £23,500 on the probate ledger account and the other bill for £27,000 on the litigation account.

21. The two bills totalled less than the credit notes' total. The Respondent agreed that when the transfer from office to client account of £26,913, recorded on the probate ledger account on 21st January 2003, was made there was no corresponding movement of funds. The transfer had been set off against a corresponding transfer from client to office account on the litigation ledger account in respect of the bill totalling £27,000.

22. On 2nd April 2003 the £27,000 litigation bill was cancelled by a credit note. £19,930.15 was transferred back to the probate ledger account. The Respondent was unable to explain this to the IO, but later suggested that the credit note might have been raised when it was realised that the firm had "over-billed" and this was probably an error.

23. The Respondent was adamant that the litigation client had been aware of both the bill and the subsequent credit note. The bill might not have been sent to him, or actually handed to him, but he had seen it and was aware of it.

24. The Respondent told the IO that the bill for £23,500 dated 21st January 2003 (in the probate matter) had been delivered, but it might not have been physically given, or sent, to the client: the client had agreed it.

25. The Respondent considered it was commercially acceptable sometimes to over-bill and subsequently adjust the charges. He did not accept that he had utilised client funds for his own purposes.

26. In addition to the bills and credit notes drawn, a number of transfers of funds had been made from the probate ledger account to the litigation ledger account. The firm had utilised all of these sums for costs and disbursements. There were twelve transfers from 10th July 2002 to 26th November 2002 ranging in amount from £11.00 to £12,000 and totalling £45,499.33.

27. The probate bill contained a detailed analysis of the work undertaken but the litigation bill for £27,000 dated 21st January 2003 did not. The credit note for £27,000 was dated 2nd April 2003.

Sums due to the Legal Services Commission

28. In numerous legally aided matters, where funds had been recovered by the firm for the clients concerned from third parties, sums due to the Legal Services Commission, which should have been held in client bank account, were incorrectly retained in office bank account.

29. The Respondent agreed that his accounting records showed that the total sum due to the Legal Services Commission as at 31st July 2003 was £46,998.67 and that this sum was incorrectly held in the firm's office bank account. The payment demand received from the Legal Services Commission showed a balance due from the firm at that date of £21,607.88. The Respondent was unable to explain the discrepancy between those two figures.

30. In one case cited by the IO as an example the relevant account in the clients' ledger showed nine lodgements in office bank account of sums received from the Legal Aid Board between November 1999 and October 2001 totalling £5,167.12. The Legal Services Commission was not advised of the recovery of funds until 12th February 2003. A payment demand from the Legal Services Commission dated 6th March 2003 showed sums due to the LSC in respect of this matter totalling £6,781.43. The account in the clients' ledger showed transfers dated 14th March 2003 from the office column of the clients' ledger account to the credit of an account in the firm's Nominal (or general) Ledger entitled 'Legal Aid Nominal'. No repayment to the Legal Services Commission had been made and the firm's liability to the LSC was reflected in the nominal ledger account. The cash shortage in client account that arose as a result remained in existence for a period of twenty months.

Cash shortages replaced prior to 31st July 2003

31. The IO noted several client matters in respect of which incorrect transfers from client to office bank account had been made, resulting in cash shortages on client bank account which were subsequently replaced prior to 31st July 2003. In one case there had been a cash shortage of £82,000. Monies had been transferred to office account to meet cheques drawn. A cheque recorded as having been drawn on 14th January 2003 for £40,000 had not been sent out. It was replaced by a bank transfer but the cheque was not cancelled until 2nd June 2003. The money was not transferred back.

The cash shortage continued until 31st July 2003 when a bill was issued which effectively "replaced" the money.

32. The following interim bills had been raised:-

Date	Amount
24.01.2003	£20,000.00
28.01.2003	10,000.00
03.02.2003	12,000.00
	£42,000.00

All had been cancelled by credit notes in the same amounts on 9th April 2003.

33. A further interim bill was raised on 30th April 2003 in the sum of £40,000. A further interim bill of costs for £30,000 on 6th June 2003 was raised and the following transfers from client to office bank account were effected:-

Date	Amount
04.06.2003	£15,000.00
09.06.2003	10,000.00
10.06.2003	5,000.00
	£30,000.00

34. On 15th July 2003, a transfer of £30,000 from client to office account was recorded in the ledger account in respect of a bill of costs although no corresponding bill was shown on the account. This resulted in a credit balance of £28,804.73 on the office column of the ledger account at that date, indicating an apparent cash shortage of a like amount at that date.

35. On 31st July 2003 two of the interim bills for £40,000 and £30,000 were cancelled by corresponding credit notes and a "final bill" issued in the total sum of £125,902.27.

36. The Respondent acknowledged that none of the interim bills had been delivered to the client. This was at the specific request of the client. The Respondent said that the "final bill" dated 31st July 2003 had been delivered to the client.

37. The IO observed that as the interim bills had not been delivered to the client, the corresponding transfers of funds from client to office account were in breach of the Solicitors Accounts Rules and resulted in continuing cash shortages on client account from 24th January 2003 to 31st July 2003 in varying amounts up to £42,000. The total cash shortages on this matter alone rose to at least £82,000 and most of this shortage remained in existence for six months.

38. In another client mater where the Respondent's firm acted for the executors in a deceased's estate the relevant account in the clients' ledger recorded the following transfers from client to office bank account in respect of the firm's costs:-

12.09.2002	£2,350.00
01.10.2002	1,175.00
23.10.2002	881.25
29.11.2002	2,358.22
	6,764.47
04.12.2002	4,406.25
	£11,170.72

39. The only bill delivered to the clients was a bill for £6,764.47 sent on 28th November 2002. When an executor complained about the level of the firm's charges a credit note for £881.25 was issued which reduced the final bill from £6,764.47 to £5,883.22, the amount shown in the estate account.

40. The Respondent agreed that bills totalling £4,406.25 (relating to the first three transfers) had not been delivered to the clients so that a cash shortage of £4,406.25 had existed on client bank account as at 23rd October 2002. Those bills had not been re-credited in the ledger account but a transfer of £3,701.94 had been made from office to client account on 30th June 2003 described as "gross interest". In addition, interest amounting to £1,223.65 had been credited to a designated deposit account held in this matter. The interest accounted for to the clients was £1,660.78 so that it was unclear whether, and if so how, the cash shortage had been replaced.

Property transactions

41. The IO went on to express concern about irregularities that had occurred in property transactions of which the Respondent's firm had conduct.

42. The Respondent had acted for a couple each of whom sometimes used the other's family name. The Respondent said he had advised these clients that they must use their "true identities" when dealing with financial institutions.

43. The transactions causing concern were:-

(i) - Purchase of C House by Ms P

44. The Respondent's firm acted for IAB as Ms P in her purchase of C House from her sister with a mortgage advance from Woolwich plc. The Respondent also acted for the seller and the lender. The purchase price was £300,000. The purchase was completed on 1st August 2000.

45. The relevant account in the clients' ledger showed the receipt of the net mortgage advance of £249,780 on 20th July 2000. On 1st August 2000 £58,430.38 was received with the narrative "Client Cheque In - Ms P - Completion Monies". This appeared to be balance of the purchase money including legal fees, Stamp Duty and so on.

46. £300,000 was then transferred from the ledger account in the name of Ms P to a ledger account in the name of her sister, being the transfer of the full purchase money from buyer to seller on 1st August 2000. On the same date the ledger account in the

name of the sister showed also a payment of £58,430.38 with the narrative "Client Direct Out - Ms P - Bal Due".

47. Therefore on 1st August 2000 the firm's books showed both the receipt of £58,430.38 from Ms P and the payment to her of the same amount. In addition, the ledger account in the name of the sister showed on 7th August 2000 a payment of £12,960.28 with the narrative "Client Direct Out - Ms P - Balance Completion Monies".

48. It appeared that the buyer did not provide the balance of the purchase money in the transaction and that the only funds received by the firm in respect of the purchase were those from Woolwich plc. The purchase file did not indicate that the lender had been notified that the firm acted for the seller and the buyer in this transaction, or that the seller and buyer were related. The purchase file did not indicate that the lender had been informed that Ms P had received £71,390.66 from the buyer following completion, or that she had not provided the balance of the purchase money. The was no evidence that the Respondent advised the lender that Ms P's true identity was IAB.

49. It had not been possible to examine the file relating to the sister's sale of the property as the file had been returned to the client.

(ii) - Remortgage of C House

50. The Respondent's firm acted for Ms P in her remortgage of C House in November 2000. It also acted for the mortgagee, UCB Home Loans Corporation Limited.

51. The certificate of title, signed by the Respondent on 21st November 2000, stated that the borrower was Ms P and that the mortgage advance was to be £500,295. The file did not indicate that the Respondent had advised the lender that Ms P's true name was IAB.

52. A mortgage deed in favour of UCB Home Loans Corporation Limited was executed by Ms P on 28th November 2000, and witnessed by the Respondent. Whilst acting on behalf of UCB Home Loans Corporation Limited, the Respondent carried out a bankruptcy search in the name of Ms P, knowing that this was not her real identity.

53. Following completion of the remortgage the following client account payments were made from the net proceeds:-

28 November 2000	£25,000.00	MC Services Part Completion
28 November 2000	30,000.00	JP Part Completion Monies
28 November 2000	3,000.00	to office account re cash paid to client
30 November 2000	25,000.00	Ms P P/Completion Money
1 December 2000	4,000.00	G J P Part Completion (paid cash)
1 December 2000	45,000.00	IAB Completion Monies
3 January 2001	82,835.63	IAB Bal Due
3 January 2001	15,000.00	to office account loan to JP
	£229,835.63	

There was no explanation on the file as to why JP, or GJP, and MC Services, received part of the mortgage proceeds or why some payments were made to Ms P (the same person as IAB) and others to her sister.

(iii) - Further remortgage of C House

54. The firm acted again for Ms P in a further remortgage of the property which was completed on 2nd October 2001. The firm also acted for Cheltenham & Gloucester plc, the mortgagee.

55. On 17th September 2001 Ms P signed a mortgage agreement with Cheltenham & Gloucester plc. The agreed advance was £900,000. A certificate of title signed by the Respondent on 26th September 2001 showed the borrower to be Ms P. There was no evidence that the lender had been advised that Ms P's true identity was IAB.

56. The mortgage deed in favour of Cheltenham & Gloucester plc was executed by Ms P on 2nd October 2001 and witnessed by the Respondent. Whilst acting for Cheltenham & Gloucester plc the Respondent carried out a bankruptcy search in the name of Ms P, knowing that this was not his client's real identity.

57. The balance on client account following redemption of the previous mortgage on 8th October 2001 was £390,033.76. The net proceeds were not forwarded directly to the client. The ledger account remained open with a credit balance until 28th May 2002.

58. The ledger account showed during the period between 8th October 2001 and 28th May 2002 a number of receipts and payments on client account which the IO considered were consistent with operating a bank account on behalf of the client. The Respondent confirmed that he had used client account as a bank account for his client. There had been eight receipts totalling £187,000 and forty-five payments totalling £577,033.76.

59. The client file contained no formal instructions from the client to make the five cash payments totalling £18,000. It was not possible to confirm the identity of the recipients.

60. With regard to the credit card payments in October 2001, the Respondent's office manager wrote to Mr JP (IAB's partner) on 29th October 2001 advising him that Halifax plc had refused to accept a cheque payment of £12,000 into his account and had advised that the maximum amount they could accept was £10,000. She then enclosed two cheques for £10,000 and £2,000 for Mr JP to pay into his account.

61. The client matter file contained no formal instructions from the client to make the payments to Mr JP or to third parties. These payments were not explained.

62. The Respondent said a payment on 5th November 2001 of £200,246.56 recorded on the ledger account was a loan to him from the client to assist with his purchase of the firm's Grays office building. There was no written agreement in respect of the loan and the client did not seek independent legal advice. There were no documents to demonstrate the client's agreement to make the loan.

63. Repayments of the loan were made piecemeal by transfers from office to client account when there were insufficient funds held in this client's account to meet further payments to be made on Mr P's instructions.

64. None of the payments made between 8th October 2001 and 28th May 2002 were made to Ms P (or IAB) following completion of the remortgage.

(iv) - Third Party Guarantee

65. On 19th July 2002 Ms P executed a Third Party Legal Charge over C House in favour of National Westminster Bank plc as security for all the indebtedness of Mr GJP to the bank. The Respondent's firm acted.

66. On 19th July 2002 the firm's assistant solicitor witnessed the signature of Ms P on the third party charge document. He also signed the bottom of the document to confirm that he had explained the nature and effect of the charge and that the borrower had confirmed that she understood the same. There was no evidence that National Westminster Bank plc had been advised that the true identity of the guarantor was IAB.

67. The Respondent said he had acted for Ms P in her purchase and remortgages of C House when he knew that her true identity was IAB and had assumed that the lenders had made their own enquiries. He had taken comfort from the fact that the property was worth between £5million and £7million and that Ms P and Mr GJP were persons of substance, and he was confident that the loans were properly secured.

68. The second charge in favour of National Westminster Bank plc was limited only to the value of the property and so the amount of equity in the property would be dependent upon Mr GJP's indebtedness to the bank. The Respondent said that he was unaware of the second charge in favour of National Westminster Bank plc.

(v) - Sale and purchase of B House

69. The firm acted for Mr GJP in his purchase of B House form Ms T with the assistance of a mortgage advance from Abbey National plc for whom the firm also acted. An assistant solicitor with the Respondent's firm acted for the seller.

70. The purchase price was £120,000. Completion took place on 11th April 2002. In the valuation report prepared for Abbey National plc this price was described as "excessive". For mortgage purposes the report proposed adopting a value of £105,000. Abbey National made a net mortgage advance to Mr GJP of £99,725 based on the valuation of £105,000.

71. The relevant account in the clients' ledger showed the receipt of £99,725 on 8th April 2002, being the mortgage advance, and on 11th April 2002, two transfers totalling £20,275 from the ledger account in respect of the remortgage of C House by Ms P.

72. The purchase price of £120,000 was then transferred from Mr GJP's ledger account to that in the name of Ms T on 11th April 2002. This latter account showed, on the same date, a payment of £49,863.29 being the redemption of a mortgage and a transfer

£69,429.59 to another client ledger account in the name of P, described as "Loan to Mr P from T".

73. On 9th May 2002 the seller's ledger account was credited with the receipt of £1,137.08, being a refund of an overpayment on the mortgage redemption, and this amount was transferred on 15th May 2002 to Mr GJP's client ledger account, with the narrative "Loan agreed between T/P".

74. From the sale proceeds of £120,000 a total of £70,566.67 (£69,429.59 + £1,137.08) was paid by the seller to the buyer in the form of a loan. No copy of any loan agreement between P and T was found on either file. No evidence was seen that either client had been offered the opportunity to obtain independent legal advice in respect of the loan. No evidence was found on the file that the lender was advised of this loan, or that the firm was acting for both the seller and the purchaser. The Respondent did not consider that he was under a duty to disclose to the lender the fact that Ms T had made a loan to Mr GJP.

75. The firm's clients' ledger contained an account in the name of IAB relating to an earlier sale by her of B House. The relevant client matter file was not made available as it had been returned to the client.

76. The IO also noted that Mr JCP, the son of Mr GJP and IAB, was a party to the original lease of B House executed on 14th December 1992. A copy letter found on the firm's sale file showed that the firm had acted for Ms T in 1998 when she acquired her leasehold interest in the property.

(vi) - Apartment 3

77. The firm acted for Ms P in her purchase of this property for £150,000 on 14th March 2003. The agreement showed the buyer to be Mr GJP and the firm appeared to have been instructed by Mr GJP although the lease was granted to Ms P and registered in her name on 16th July 2003.

78. The firm acted for Ms P in her sale of the property for £240,000 completed on 6th August 2003. The firm also acted for the buyer, Ms L, and for Halifax plc, the buyer's lender.

79. The ledger account in the name of the buyer showed on 30th May 2003 a lodgement in client bank account of £40,000 described as purchase monies on account from the client and a transfer of like amount to the seller's ledger account on 2nd June 2003 shown as "Deposit Monies".

80. The account recorded the receipt of the mortgage advance of £178,000 on 31st July 2003 and a transfer of £22,000 from another ledger account on 5th August 2003, being the balance of the purchase price. On 6th August 2003 the balance of the purchase price, £200,000, was transferred from the buyer's to the seller's ledger account.

81. The seller's ledger account showed the receipt of the deposit of £40,000 on 2nd June 2003 and a transfer of like amount on the same date to the firm's office account with the narrative "Repayment of Loan from Mr GJP". The receipt of £40,000 on 30th

May 2003 (above) had come from QB Limited, a company controlled by the Respondent, and he had effectively provided part of the purchase monies. He was repaid on 2nd June 2003, the sum of £40,000 having remained in the firm's client account for two days. The Respondent explained that there had been an existing indebtedness by the seller to the buyer in respect of a loan made some years earlier. He said that the payment of £40,000 by QB Limited was a loan to Mr GJP to enable him to make partial repayment.

82. The transfer of £22,000 to the buyer's account on 5th August 2003 came from SE Limited, a company in which Mr GJP and the Respondent each had a 50% interest. He said that this also was a part repayment of the sum owed by Mr GJP to Ms L. He said that it had been agreed between the parties that Q Limited and SE Limited would pay the sum of £62,000 to Ms L on behalf of Mr GJP.

83. The assistant solicitor having conduct of the matter said that he was not aware that the sum of £40,000, received on 30th May 2003, had not come from the buyer. He said that he was aware that the sum of £22,000 received on 5th August 2003 was from S E Limited and he understood that this was a loan to Ms L. He said that he did not consider it appropriate to advise his lender client that the borrower was not providing the balance of the purchase money. He acknowledged that, had the total purchase monies not passed through client account, for example where a deposit was paid direct, he would have advised the lender accordingly, but he said that, in this case, the full purchase price had passed through the firm's account.

84. There was no evidence that the lender was advised that the firm was acting for both the seller and purchaser, or that the seller had been the registered proprietor of the property for less than six months.

85. In his oral evidence the IO accepted that the relevant Solicitors Accounts Rule (Rule 19(ii)) did not require a bill to be "delivered", rather it was necessary to give or send the bill to the client, or other written notification.

86. The IO also said that he did not consider that the individual breaches dealt with in his Report amounted to dishonesty on the part of the Respondent but looked at as a whole, they could well represent a dishonest course of conduct.

The Submissions of the Applicant

87. It was the Applicant's submission that the Respondent had been guilty of serious professional misconduct both in his operation of his firm's accounts and in his professional dealings with conveyancing clients, particularly mortgage lenders. Further, the Respondent behaved dishonestly in relation to allegations (i) to (iii), (v) and (vi) within the meaning of the test set out in Twinsectra -v- Yardley and Others [2002] UKHL 12.

88. With regard to the question of dishonesty the Tribunal was invited to have regard to the following factors.

(a) The financial situation of the firm

89. The Respondent had knowledge and control of the firm's accounts throughout the relevant period and was at all times aware of the firm's parlous financial situation. His actions in relation to the accounts should be seen in that context. The firm's financial situation was an indicator that the Respondent had behaved dishonestly.

(i) The office overdraft facility was £50,000 (with flexibility to £100,000). It was accepted that the Respondent's bankers had allowed the overdraft to run beyond £100,000;

(ii) The Respondent had overall responsibility for the accounting records;

(iii) The firm's bank statements demonstrated that the firm was always up to its overdraft limit and the overdraft was never less than £50,000 between 3rd March 2003 and 28th April 2003;

(iv) The IO looked at the bank reconciliations at the beginning of his inspection and noted unpresented cheques totalling £244,953.90; if these cheques had been presented, the overdraft at the bank would have been £323,366.69;

(v) Examination of the unpresented cheques revealed a number of cheques for Counsel's fees that had not been sent to Counsel. Clients' money had been transferred to office account to pay those fees. Clients' money was therefore in office account when it should have been in client account; in essence, client account was supporting office account.

(vi) The Respondent was aware of the financial situation of the firm; he was also responsible for the improper transfers and hence for the firm's unlawful borrowing from client account.

Allegations (i), (ii), (iii) and (v)

The Respondent's method

90. By his operation of the firm's accounts, the Respondent either took costs and client monies when he was not entitled to them at all, or when he was not entitled to them at that stage; and/or when he had not delivered a bill; or for disbursements that he subsequently did not pay. The Respondent's manipulation of the firm's accounts was evidenced by the numerous credit notes, the lack of narrative on bills, and his answers when interviewed by the IO.

91. It was the Law Society's case that the Respondent's books did not reflect the true nature of his accounts; that improper transfers were made that should not have been made; that he had a cavalier disregard for the Solicitors Accounts Rules and indeed "drove a coach and horses" through those Rules; that he manipulated his firm's accounts for his own purposes and that his activities were a mechanism for improperly moving money from client account into office account.

92. In the matter of W and others, on 26th March 2002 a cheque was drawn on office account for Counsel's fees payable to a Queen's Counsel in the sum of £29,375. The

Respondent confirmed that this cheque was not sent out and it was cancelled, over a year later, on 11th April 2003. At the point when this cheque was drawn, Counsel had not raised a fee note and had carried out approximately 7 hours work. There had been no need to draw a cheque for fees as they were not due to Counsel.

93. On 11th April 2003 the Respondent purported to draw three further cheques totalling £82,015 from office account for Counsel's fees and the original cheque for £29,375 was cancelled.

94. On 23rd and 28th April 2003 two further transfers were made from client to office account in the sum of £70,000 purportedly in respect of costs. This transfer included £64,171.86 in respect of Counsel's fees (ie the three cheques of 11th April 2003) but this remained unpaid as at 31st July 2003. In effect, this was again a mechanism for transferring money from client to office account for disbursements that were not then paid.

95. The cash shortage was replaced and Counsel's fees totalling £65,721.25 were paid on 22nd September 2003. That was after the IO's inspection but before his Report.

<u>The late Mrs I and the executor's litigation matters</u>

96. Between 10th July 2002 and 27th November 2002 £56,563 was transferred from client to office account purportedly for costs. All of the related bills were cancelled by credit notes on 21st January 2003 and a new bill in the sum of £23,500 was created, and a transfer made back from office to client account in the sum of £26,913. None of the bills was delivered to one of the two executors, although the Respondent insisted that he delivered them to the other executor. The executors were brother and sister. £26,913 was then transferred from client account on the probate matter to client account on an executor's litigation matter on 21st January 2003. On the same date that amount was transferred from client to office account on the litigation matter against an interim invoice. The narrative on that interim bill referred to "trust management" and not to litigation. This bill was cancelled on 2nd April 2003. The Applicant queried why it had been raised in the first place. The firm did not appear to be entitled to it. On the same date £19,930.15 was transferred back to the probate ledger account.

97. Various other transfers were made from the probate matter to various other litigation matters.

98. With regard to the cheque for £40,000 which was not sent out, that cheque was not cancelled until 2nd June 2003 although payment had been made by telegraphic transfer. The money was not returned to client account and a cash shortage of £40,000 existed from 14th January 2003 to 31st July 2003. The Applicant accepted that this was probably a mistake, but it was not speedily rectified.

99. £42,000 was then taken in costs over a 14 day period. The Respondent accepted that the relevant bills were not delivered to the client. As these bills were all cancelled by credit notes on 9th April 2003 the Applicant questioned why they were raised in the first place. There had been no explanation why three bills were issued in 14 days and then cancelled. The only plausible explanation was that, again, it was a method of moving clients' money into office account.

100. A further interim bill was raised on 30th April 2003 for £40,000. Another interim bill for £30,000 was raised on 6th June 2003 supported by transfers on 4th June, 9th June and 10th June from client to office account totalling £30,000. On 15th July 2003 there was a transfer of £30,000 from client account to office account unsupported by a bill, leaving a credit balance on office account.

101. On 31st July 2003 the bills of 30th April 2003 and 6th June 2003 were cancelled and a final bill was delivered.

102. Where costs of £11,170.72 had been taken from client account to office account over a three month period in 2002, only one bill had been sent to the client.

103. The Respondent agreed that the bills totalling £4,406.25 had not been delivered to the clients and that those transfers were therefore improper and office account had had the use of that money which should have been in client account.

104. In seeking to prove dishonesty in relation to allegation (vi) the Applicant relied on the following transactions: the purchase of C House, the remortgage of C House and the further remortgage of C House. The IO had expressed his concerns about these conveyancing transactions all of which bore the hallmarks of mortgage fraud. The Respondent had not notified lenders of significant matters that might have affected their decision to lend. These matters included questions about the true identities of the borrowers, the relationships existing between the participants in the conveyancing, and the unusual financial arrangements and movements of money.

105. The Applicant relied on the Third Party Guarantee in favour of National Westminster Bank plc transaction as further evidence that the Respondent failed to disclose material information to mortgagees and failed to act in their best interests.

106. The Applicant relied on the sale of B House and the purchase and sale of the apartment to support allegation (ix) namely that the Respondent acted improperly in a conflict of interest situation. The Respondent had admitted that allegation. Those transactions also supported allegations (vi) and (vii) but the Applicant did not suggest that the Respondent acted dishonestly in either case.

<u>Failing to advise a client to seek independent legal advice/failing to have due regard to funds paid in and out of client account</u>

107. The allegations that the Respondent failed to advise a client to seek independent legal advice and a failure to have due regard to funds paid in and out of client account had been admitted by the Respondent.

The Submissions of the Respondent

108. Under the "Twinsectra" test before a finding of dishonesty for which a person could be held liable it had to established that the Respondent's conduct was dishonest by the ordinary standards of reasonable and honest people and that he himself realised that by those standards his conduct was dishonest.

109. The Respondent had not been dishonest and made the following points with regard to those matters which the Applicant asserted were indicators of dishonesty.

110. It was not the case that the Respondent was not able to arrange for certain cheques to be cleared if presented to the bank. The bank arrangement in place at the time of the IO's inspection was that it was acceptable for the Respondent to telephone the bank to confirm an increase of the overdraft limit to £100,000. When the IO informed the Respondent that certain monies needed to be transferred from office to client account this was done immediately. It was a substantial sum. The Respondent had always been in a position to arrange funds needed by the firm and had never been under pressure from his bankers when funds were required even if special arrangements had to be made. There was no need improperly to withhold cheques from being released. A large number of the cheques listed on the unpresented items list were cheques that had only been written in the few days before the date of the list - 1st August 2003 - and were in course of payment.

111. The Respondent had not taken costs when not entitled to them and/or when no bill had been delivered or in respect of disbursements that were not paid. Even if some disbursements were paid later than they should have been, for example some Counsels' fees, they were properly payable by the client.

112. Any lack of narrative on bills or credit notes did not demonstrate some 'manipulation of the firm's accounts'. Many times an interim bill was issued to a client on a matter so that the client had a good picture of the entirety of the matter. At the end all interim bills were credited back and one bill for the complete matter was delivered. Mr W was an example of a client who wanted the firm to do this as he could not be bothered to deal with interim bills. He wanted a full bill at the end of the matter. The Respondent's firm was small but was dealing with some large and complex matters that would take many months, even years, to complete. It was necessary that the firm delivered interim bills, but most clients wanted to see a full bill for the completed matter at the end.

113. The Respondent had given straightforward answers to the IO at interviews and the IO had seen documents in support of the Respondent's explanation. The Respondent accepted that there had been muddle and error. There had been no dishonesty.

114. Three mistakes had been made in connection with the matter of W and others:-

1) The client required an invoice (before placing the firm in funds) in the sum of £25,000 plus VAT. In January 2002 an invoice was raised in that sum which was shown as a disbursement bill, and although the money was received to ensure that Counsel's fees were covered, in reality it was a payment on account of costs generally.

2) In March 2002 the sum of approximately £25,000 was transferred because the invoice appeared on a list of "possible transfers". The money had been transferred as the result of a bookkeeping mistake. On 26th March the bookkeeper spotted a positive office balance and on being informed that this was for Counsel's fees a cheque was drawn payable to Queen's Counsel and passed to the fee earner.

3) In April 2003 cheques were issued for payment of counsels' fees which amounted to roughly £82,000 which at the time of the IO's inspection some three months later had not been presented and it was discovered that these again had been retained by the fee earner in his drawer. As soon as the IO explained that this was breach of Rule 19 and was considered to have created a cash shortage the Respondent arranged for the cheques to be despatched and presented without further delay, thus rectifying the "technical shortage".

115. From January 2002 to April 2003 the firm billed Mr W for approximately £300,000 on one matter alone. The accounts department constantly chased the fee earner for proper accounts information and there was confusion as to the real position.

116. Mr I, one of the executors of the late Mrs I, was a sophisticated and devious client based outside the UK although always in the UK. The Respondent's firm was handling a number of pieces of litigation for him as well as his mother's estate. The Respondent had learned that a fee earner was running a number of matters through the same file number which caused difficulties when attempting to bill the client properly for the various individual matters. Mr I frequently attended the offices either in connection with his own affairs or in connection with advising Mr W and his companies.

117. The various bills raised on Mr I's matters were the subject of frequent meetings with him and he was always aware of the position in connection with the funds that were taken from his late mother's estate to fund his various matters and he was always well aware that from about April 2003 he had depleted the estate account and he did not have funds to continue with his litigation although the firm did continue to represent him.

118. Mr I had made no complaint about any of the issues raised in the IO's report nor as to the level of fees charged to him. When the Respondent invited the IO to meet with Mr I, who was in the office when issues on the file were raised, the IO declined to do so. Had he done so he would have seen for himself that Mr I was more than happy.

119. The firm was now in litigation with Mr I who, although he never complained about any issue with the firm, had continued to fail to pay outstanding bills (amounting to £74,000) and was using his offshore status to avoid payment. The Respondent had personally paid all outstanding Counsel's fees in connection with the work done for Mr I.

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120. Problems arose in this case as Mr W, the chairman of the company, refused to deal with interim bills at the intervals that the firm needed to fund the work. Mr W asked for payment of £40,000 twice and the accounts department failed to note on the account the fact that one of the payments had been countermanded. A further problem arose as, although Mr W was in the offices on a daily basis and he was informed of the movements of money on this account, he refused to have the bills delivered to him, requiring a composite bill at the end of six months on the basis that he wanted his accountant to check the bills periodically and not when the firm sought funding to keep the matter moving.

121. The Respondent had also invited the IO to meet with Mr W. Again the IO refused. He took the view that as interim bills were drawn but not actually delivered to Mr W a cash shortage was created on the account as the money had not been transferred contemporaneously with the delivery of a bill.

122. At the end of the six month period referred to in the IO's Report a final bill was delivered to the client, Mr W, as requested for £125,000. All interim bills were credited back and the client approved the payment of the final bill. The only real problem was that interim bills were raised as agreed with the client but they were not actually handed to him. This was on the client's express instructions. He had been made aware in the many meetings with him that the transfers were taking place. If he had wanted to inspect the interim bills he could have done so at any time. Mr W's explanation was that the company's main office was in Cyprus, although his accountants were based in the UK and he wanted his accountant to check the bills at three or six monthly intervals so that full advantage could be taken of the limited time available to challenge the bills. In meeting the client's requests the Respondent did not appreciate that he was in breach of the Rules or that a cash shortage would result.

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123. Interim bills were raised on this matter between September 2002 and December of that year when a final account was prepared and, after a reduction of £750 plus VAT agreed at the client's request, were approved and the matter completed. The Respondent had understood that the interim bills had been delivered to the client in the normal way but after reviewing the file at the IO's request he agreed that they had not been sent out. The Respondent was unable to explain the failure.

124. The Applicant sought to prove that the Respondent had acted dishonestly in various conveyancing transactions. It was suggested, in the matter of C House, that in not disclosing to the lender the fact that Ms P was also known as IAB and the fact that on the day of completion of the transaction the firm had been instructed to send some monies due to the seller back to the buyer, who was the sister of the seller, was evidence of dishonesty on his part. This was denied. Further in the matter of the remortgage of C House and its second mortgage it was suggested that again the fact that the Respondent did not inform the lender of Ms P's dual names that he was dishonest. The Respondent denied this.

125. A competent conveyancing assistant solicitor of 25 years experience had had conduct of the C House transactions. He did not think it necessary to inform Nat West that Ms P was also known as IAB as the branch of NatWest concerned was also her branch and they were fully aware of her dual names as she had an account with them in the name of IAB.

126. In the matter of B House the Respondent had acted for both the vendor and the purchaser on previous occasions and he did not believe that in such circumstances it was wrong to act for both parties and also the lender.

127. In the matter of the Apartment the Respondent had acted for GJP and Ms P on a number of previous occasions and had also acted for Mr and Mrs L in a number of transactions previously. In such circumstances the Respondent did not consider that there was any conflict of interest preventing him from acting for both sides.

128. The general nature of the allegations levelled against the Respondent fell into two categories, namely:-

1) That he manipulated client account by raising interim bills which were never delivered to the client and transferring sums to office account in respect of those bills to ensure that office account was within the agreed overdraft limit. In not delivering such bills the Applicant took the view that that was a wrongful withdrawal from client account and as such the account was correspondingly short of the cash withdrawn, and

2) That in certain cases he failed to inform lending institutions of all the facts of the transactions and deliberately withheld information.

129. The Respondent had given detailed explanations which provided the background and set out why certain things had been done and/or not done. There was no concerted effort either to manipulate the accounts or to deceive any client. The Respondent had made honest mistakes and there had been no dishonest intent.

130. The firm had two offices and some thirteen staff. The Respondent was the principal partner at all relevant times and had to deal with the general supervision of most of the larger transactions in which the firm had been retained as well as handling his own caseload and the supervision of the administration and accounts of the firm. In addition the Respondent was busy expanding another business outside the practice. With hindsight it was almost inevitable that mistakes were going to be made as the Respondent relied on other people to give him the relevant information to make decisions.

131. The Respondent had set up a committee of partners and/or solicitors and fee earners to discuss and deal with administration issues and the improvement of systems and things were being done to put right situations where difficulties had arisen.

132. Ever since the Respondent took over the practice in 1995 his Accountant's Reports had been delivered to the Law Society on time and revealed no major concerns.

133. At no time was the Respondent unable to deal with the capital requirements of the firm and although his agreed overdraft position was relatively modest, he had arranged matters that way deliberately to ensure that the firm did not fall into a situation where having arranged a much larger facility it became complacent and used that facility to its full capacity. It was always the case that the bank had agreed to grant such facilities as were reasonably required and that the Respondent could extend his overdraft with the bank as and when required. The Respondent had substantial other business interests which would allow him to borrow much larger sums than were formally agreed. The Respondent had not deliberately broken any of the Accounts Rules.

134. The Respondent fully cooperated with the Law Society's IO. When the Respondent received the letter dated 18th November 2003 from the Law Society he was so shocked and concerned that he took immediate steps to withdraw from the practice to ensure that there was no loss or inconvenience to clients or staff even though in so doing he was required to give blanket indemnities to the remaining partners with

regard to all future outgoings of the firm. That had cost the Respondent several hundred thousand pounds.

135. When it was put to him that there was a cash shortage the Respondent immediately replaced the sum required. There had been no loss to anybody other than himself.

136. No client had complained in any of the matters referred to with the exception of Mr W who was trying to put pressure on the Respondent to reduce his bills. After proceedings were issued for recovery, however, Mr W agreed and did pay the bill. A complaint had been made by the executors in the D case about the level of fees and in view of the mistakes that had been made the Respondent did agree a small reduction. The client was then fully satisfied.

137. The Respondent firmly believed that if the IO had met with Mr W and Mr I he would have been entirely satisfied and the question of dishonesty would not have been raised.

138. Where there had been a failure to provide information to third parties the Respondent had been unaware of what was required to be provided. The requirements in relation to disclosures had increased considerably since 2000 and the matters complained of went back to that date. The experienced assistant conveyancing solicitor was unaware of some of the requirements. He asked the lending institution about one of the matters and discovered that its disclosure was not a requirement. Whilst the Respondent had overall responsibility for his firm it was unfair to be held responsible for a failure to provide information where neither he nor his assistant solicitor considered that the omission amounted to a breach of the Rules.

139. In none of the matters of complaint did the Respondent personally gain, directly or indirectly, from any of the actions or inactions referred to.

140. The investigation took place in August 2003 and concerned matters going back as far as 2000. The distance in time between the investigation and the disciplinary hearing had created problems in dealing as fully as the Respondent would have liked with all the issues as some information was missing and memory had faded.

141. Since the investigation things had not gone well for the Respondent. In addition to losing his practice in circumstances which cost him a lot of money, his other business interests had had difficulties and he had not had any income for the previous 12 months. He was living on rapidly diminishing capital. At this stage of his life the Respondent would have liked to retire from practice as gracefully as possible. He saw his future work as a consultant. He did not intend to apply to renew his Practising Certificate, but he hoped he might be permitted to remain on the Roll.

The Findings of the Tribunal

142. The Tribunal found all of the allegations to have been substantiated, but it did not find that Mr Lygoe had been dishonest. The Tribunal was satisfied that Mr Lygoe's firm was run in a muddle, the books of account were not properly kept and no proper attention was paid to the requirements of the Solicitors Accounts Rules. Whilst it was right that the question of dishonesty had been aired before the Tribunal, it accepted that Mr Lygoe had not developed a scheme whereby he sought to conceal his own

improper use of clients' money to ameliorate his firm's cash flow problems. However on the face of it that might well have proved to be the case.

Previous Findings of the Tribunal

143. On the 30th April 1987 the Tribunal found the following allegations to have been substantiated against the respondent (who was a joint respondent on that occasion with David Richard Roodyn). The allegations were that the respondent had:-

(i) failed to comply with the Solicitors Accounts Rules 1975 in that he:-

(a) notwithstanding the provisions of Rule 8 of the said Rules drew out of a client account money other than that permitted by Rule 7 of the said Rules;

(b) notwithstanding the provisions of Rule 11 of the said Rules failed to keep properly written up such books and documents of account as are required by such Rule;

(ii) been guilty of conduct unbefitting a solicitor in that he:-

(a) failed to comply with the terms of his undertaking given to Messrs. Roger Brooker & Co.;

(b) dealt with monies received by him from other solicitors otherwise than in accordance with the conditions on which the monies were received;

(c) failed to comply with the terms of his undertaking given to Messrs. Graham & Oldham;

(d) failed to pay agency charges due from him to other solicitors who had acted as his agents upon instructions from him;

(e) failed to pay fees due to Counsel instructed by him in a number of cases.

The Tribunal ordered that the Respondent be suspended from practice as a solicitor for the period of three years from the 30th April 1987 and ordered him to pay three quarters of the costs of the applicant to include the costs of the Law Society's Investigation Account. (The other Respondent was reprimanded and ordered to pay one quarter of the costs).

144. At a hearing on 25th March 1999 an allegation that Mr Lygoe had employed in connection with his practice a solicitor Barry John Elmore whose name had been struck off the Roll without the prior written consent of the Law Society in breach of Section 41 of the Solicitors Act 1974 (as amended) was substantiated. The Tribunal in 1999 noted that the respondent admitted that he had engaged a struck-off solicitor without obtaining the written consent of the Law Society.

145. On the face of it that was a serious breach on the part of a solicitor. If members of the solicitors' profession ignored an order of its Disciplinary Tribunal by permitting a

solicitor whose conduct had been so serious as to warrant his being struck off the Roll of Solicitors to undertake work on behalf of members of the public the good reputation of the solicitors profession would suffer serious damage and the profession's ability to maintain a proper degree of self regulation would lose all credibility.

146. There were two aggravating features. The respondent had been aware that Mr Elmore had in the past suffered professional difficulties. He apparently did not know that Mr Elmore had been struck off the Roll but the Tribunal were of the view that the extent of his knowledge clearly put him on notice that there might well have been a professional difficulty and he should have made the appropriate checks. The second matter was the fact that the respondent upon being notified formally by his own professional body that he was employing a struck off solicitor without consent did not take immediate steps to rectify the position. The Tribunal accept that the respondent was concerned about the conduct of client matters but it was transparently clear that he was in breach of Section 41 of the Solicitors Act 1974, that such a breach attracted a mandatory sanction and was not a matter to be taken lightly. In reality the respondent was not in a position to decide to continue to employ Mr Elmore for such period of time that proved convenient to the respondent.

147. The Tribunal recognised that there were some mitigating factors. The Tribunal accept that the respondent did not know that Mr Elmore had been struck off the Roll. The Tribunal accept that the hasty departure of a crucial member of staff placed the respondent in difficulty. The Tribunal accept that the letter addressed by the Office to the respondent dated the 12th August 1997 served to offer some comfort to the respondent.

148. The Tribunal would however consider it improper for a Committee of the Office to decide not to refer a breach of Section 41 of the Solicitors Act 1974 to the Tribunal as a decision not to make such reference would fly in the face of the statutory requirement that such breach attracted a mandatory penalty, the only mandatory penalty contained in the Solicitors Act.

149. Bearing in mind that the Tribunal was bound by the Act to impose a mandatory sanction upon the respondent that would deprive him of his ability to practise, the Tribunal considered that a striking off order was not appropriate. It took into account the respondent's previous appearance before the Tribunal and considered in all circumstances that it was right that the respondent should be suspended from practice for the period of nine months.

150. Upon application made on behalf of the respondent that the filing of the Tribunal's Order with the Law Society might be suspended to avail the respondent of an opportunity of putting his clients affairs in order, the Tribunal refused on the basis that the offence attracted a mandatory penalty and the respondent must have known this in advance and should have had such preparations well in hand prior to the hearing. The Tribunal also ordered the respondent to pay the applicant's cost in an agreed fixed sum.

The Tribunal's Decision and its Reasons

151. The Tribunal deprecated Mr Lygoe's assertion that the breaches substantiated against him were "technical breaches". The Tribunal had before it a catalogue of serious and fundamental breaches of the Solicitors Accounts Rules. A solicitor is required punctiliously to comply with those important Rules which are in place to protect the public by ensuring that a solicitor deals properly and fairly with his clients' money and all dealings on behalf of a client are truthfully and accurately recorded. Mr Lygoe fell very far short of that requirement.

152. Further, Mr Lygoe was responsible for the actions of a member of his staff who undertook conveyancing transactions which had many hallmarks of mortgage fraud. The Tribunal found it hard to believe that a solicitor would conduct a bankruptcy search against the name used by a client when the solicitor knew that it was not the client's true name or, indeed, that he would allow a mortgage loan to that client to proceed without ensuring that his lending client was fully appraised of this and other details affecting the transactions. This amounted to a serious failure to look after the interests of the lending client.

153. These matters, and those where Mr Lygoe acted for more than one client where there was a conflict of interest taken together with the earlier findings made in respect of him, served to demonstrate that Mr Lygoe was prepared to be driven by commercial expediency without due regard to the Rules governing practice which are in place to ensure that members of the public are protected. Such behaviour on the part of a solicitor puts members of the public in danger and damages the good reputation of the solicitors' profession. Mr Lygoe had abdicated his responsibilities as a solicitor.

154. Having duly considered all that has been placed before it, the Tribunal concluded that in order to protect the public and the good reputation of the solicitors' profession it was both appropriate and proportionate that Mr Lygoe be struck off the Roll of Solicitors.

155. The Tribunal considered that it was right that Mr Lygoe pay the costs of the Law Society. It ordered him to pay the full amount sought by the IO and fixed the Applicant's legal costs at £5,000.

Dated this 26th day of May 2006
On behalf of the Tribunal

P Haworth
Chairman