

IN THE MATTER OF CHRISTOPHER ONYEKA AGWU,  
[RESPONDENT 2- NAME REDACTED], solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. I. R. Woolfe (in the chair)  
Mrs E Stanley  
Ms A. Arya

Date of Hearing: 14th December 2006

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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 8<sup>th</sup> September 2005 on behalf of The Law Society by Peter Harland Cadman, solicitor and partner in the firm of Russell-Cooke of 8 Bedford Row, London, WC1R 4BX that Christopher Onyeka Agwu, solicitor of (address unknown at the time of the application but subsequently notified to be 17 Kevington Drive, Orpington, Kent, BR5 2NT) 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 fit.

And

An application was duly made on behalf of The Law Society by Peter Harland Cadman, solicitor and partner in the firm of Russell-Cooke of 8 Bedford Row, London, WC1R 4BX on 8<sup>th</sup> September 2005 that *RESPONDENT 2*, solicitor of (address unknown at the time of the application but subsequently notified to be care of Colin-Joseph of Messrs Kendal Freeman, 1 Fetter Lane, London, EC4A 1JB) 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 fit.

The allegations contained in the statement accompanying the application were that the Respondents had been guilty of conduct unbecoming a solicitor in each of the following particulars namely:-

- (a) That both Respondents failed to produce accounting records to an Investigating Officer of The Law Society.
- (b) That the books of account of the firm Solicitors Direct were not properly written up contrary to Rule 32 of the Solicitors Accounts Rules 1998.
- (c) That the Respondent Christopher Onyeka Agwu attempted to mislead an Investigating Officer of The Law Society by stating on 26<sup>th</sup> May 2005 that a letter from The Law Society informing the partners of the inspection had only been received that morning, when in fact it had been received on 21<sup>st</sup> May 2005.
- (d) That both Respondents abandoned their practice.
- (e) That the Respondent Christopher Onyeka Agwu in a conveyancing transaction failed promptly to comply with a professional undertaking.
- (f) That the Respondent Christopher Onyeka Agwu failed to reply promptly and/or at all to correspondence received from solicitors in conveyancing transactions.
- (g) That the Respondent Christopher Onyeka Agwu failed to reply promptly or at all to correspondence from solicitors retained by The Law Society.

By a supplementary statement dated 5<sup>th</sup> May 2006 the following additional allegations were made against the Respondents namely that they had been guilty of conduct unbecoming a solicitor in each of the following particulars:-

- (h) that both Respondents failed to comply with conditions of their practising certificates.
- (i) that both Respondents failed to reply promptly or at all to correspondence from The Law Society.
- (j) that the Respondents, having received funds from the purchasers in a conveyancing transaction, where the First Respondent was the vendor, failed to use such funds to discharge the mortgage on the vendor's property.
- (k) that the Respondents failed to comply promptly or at all with professional undertakings.
- (l) that the Respondents having received funds on behalf of a client to redeem a legal charge failed to use such funds to discharge that legal charge on the client's property.

#### Note

All of the above allegations were withdrawn against *RESPONDENT 2* and replaced with a single new allegation as is set out below under the heading "Preliminary Issue".

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS when Peter Harland Cadman appeared as the Applicant, Mr Agwu did

not appear and was not represented, *RESPONDENT 2* attended the hearing and was represented by Ian Croxford of Queen's Counsel.

### Preliminary Matter

Mr Agwu addressed a faxed letter to the Tribunal such letter being dated 12<sup>th</sup> December 2006 (but faxed on 13<sup>th</sup> December) in which he said:-

“Thank you for your letter enclosing the decision of the Tribunal during the last hearing which I have just received due to my recent address changes following the repossession of my house.

I can confirm that after finding it virtually impossible to secure legal representation due to financial, time and other factors, Messrs Appelbe & Co. Solicitors of 7 New Square, Lincoln's Inn, London, WC2 kindly agreed to act for me.

I am putting together my defence and their outstanding fees and respectfully request an adjournment. I fully appreciate how inconvenient this may be to you but my hypertension, depression and addiction never really rendered me fit to deal with these matters before now.

Finally, may I close by saying once more that *RESPONDENT 2* was never involved in the running of Solicitors Direct. I alone was responsible for the running of the firm. The firm had a multi-national status as recognised by The Law Society but *RESPONDENT 2* was based in Nigeria. He earned no income and paid no tax or NI contributions within jurisdiction. Please let me know if the files in your possession or letter from any client reveal that *RESPONDENT 2* at any time acted for anyone or was a signatory to any account. He simply did not act for anyone”.

For *RESPONDENT 2* it was said that *RESPONDENT 2* had come to the United Kingdom from Nigeria having arrived on the morning of the hearing solely for the purpose of demonstrating his respect for the Tribunal by his attendance.

The Law Society produced a letter from Messrs Appelbe & Co, stating that that firm had not been instructed by Mr Agwu. The Applicant explained that he had arranged for personal service of the proceedings upon Mr Agwu who had been fully aware of the proceedings since July of 2006.

The Tribunal concluded that Mr Agwu had not made an application for adjournment for an honest reason. It was necessary to consider the position of the Applicant, the other Respondent and the Tribunal's duty in the interest of the public to deal with its business with a proper expedition. In all of the circumstances the Tribunal refused Mr Agwu's application for an adjournment and the Tribunal ordered that the matter proceed to a full hearing.

### Preliminary Issue

In the light of *RESPONDENT 2*'s explanations the Applicant and *RESPONDENT 2*'s representative had reached an agreed position.

*RESPONDENT 2* acknowledged that in some respects his conduct might properly be criticised where he permitted his name to be held out for a period as a partner in the firm “Solicitors Direct” when he was not a partner. He accepted that he could and should have taken effective steps to ensure that he did not become embroiled in the problems and faults of

the First Respondent. In his affidavit dated 19<sup>th</sup> September 2006, *RESPONDENT 2* described in detail the position in which he had found himself.

The Applicant accepted *RESPONDENT 2*'s explanations and sought to withdraw the allegations made against *RESPONDENT 2* and replace such allegations with the following single allegation namely "*RESPONDENT 2* permitted his name to be held out as a partner in Solicitors Direct". That amounted to conduct unbecoming a solicitor.

*RESPONDENT 2* admitted that single allegation.

Having considered the explanations given, the Tribunal consented to the withdrawal of all of the allegations against *RESPONDENT 2*. It accepted that he should deal with the single allegation set out above and noted that he admitted such allegation.

The substantive hearing proceeded on that basis and on the basis that all of the allegations against Mr Agwu remained to be dealt with.

### The Substantive Hearing

The evidence before the Tribunal included all of the papers that had been served on the Respondents in respect of which no objection or counter-notice had been received.

### **At the conclusion of the hearing the Tribunal made the following Orders:-**

The Tribunal Order that the Respondent, Christopher Onyeka Agwu of 17 Kevington Drive, Orpington, Kent, BR5 2NT, solicitor, be Struck Off the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £17,929.00 (less the contribution of £4,000.00 from *RESPONDENT 2*).

The Tribunal Order that *RESPONDENT 2*, of c/o Colin Joseph, Kendall Freeman, One Fetter Lane, London, EC4A 1JB, solicitor, do pay a fine of £2,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that he do pay a contribution of £4,000.00 to the overall costs of and incidental to this application and enquiry fixed in the sum of £17,929.00.

### **The facts are set out in paragraphs 1 to 23 hereunder:-**

1. Mr Agwu, born in 1956, was admitted as a solicitor in 1999. His name remained on the Roll of Solicitors.
2. *RESPONDENT 2*, born in 1956, was admitted as a solicitor in 1999 and his name remained on the Roll of Solicitors.
3. At all material times Mr Agwu practised under the style of Solicitors Direct from 80 West Green Road, London, N15 5NS. *RESPONDENT 2*'s name had appeared on that firm's letterhead indicating that he was a partner. It had not been envisaged that *RESPONDENT 2* would be an active participant in the London firm. *RESPONDENT 2* had become an attorney in Nigeria and a member of the Nigerian Bar in 1978. He became and Senior Advocate of Nigeria (the equivalent of Queen's Counsel) in September 1999. On 13<sup>th</sup> July 2005 *RESPONDENT 2* was appointed to the position of Minister of Justice and Attorney General of the Federation of the Republic of Nigeria which position he continued to hold. Until that appointment he had been in private practice in Nigeria. He was appointed President of the Nigerian Bar Association in August of 2004, holding that position until his appointment as Attorney General.

4. The Law Society intervened into the practice of Solicitors Direct following its resolution so to do on 3<sup>rd</sup> August 2005.
5. Mr Agwu acted for the vendor in a conveyancing transaction, Ms Y. On 23<sup>rd</sup> September 2004 in replies to the requisitions on title he gave an undertaking to the purchaser's solicitors, Messrs Edell Jones and Lessers, in effectively the following terms:-

“To redeem or discharge the mortgages and charges listed in reply to 6.1 on completion and to send to us form DS1 or the receipted charges as soon as you receive them”.
6. The purchaser's solicitors wrote to Solicitors Direct with regard to their failure to comply with this undertaking by letters of 19<sup>th</sup> October and, 2<sup>nd</sup> November 2004. Solicitors Direct replied by letter of 5<sup>th</sup> November 2004 stating that they were chasing “END/1” and would forward the same as soon as it was received. The purchaser's solicitors wrote further on 18<sup>th</sup> and 29<sup>th</sup> November, 13<sup>th</sup> and 16<sup>th</sup> December 2004 and 10<sup>th</sup> January 2005. By that stage, because the vendor's mortgage had not been redeemed, the purchaser had received a letter from Halifax Building Society stating that it had written to its solicitors asking them to enforce a warrant for possession of the property.
7. The Law Society instructed Messrs Gordons to act on their behalf with regard to the complaint made by the purchaser's solicitors. They wrote to the Respondent on 25<sup>th</sup> February and 14<sup>th</sup> March 2005. After Mr Agwu replied on 24<sup>th</sup> March 2005 he was requested to provide further information by letters of 30<sup>th</sup> March and 18<sup>th</sup> April 2005. Further correspondence was sent to him on 19<sup>th</sup> and 29<sup>th</sup> April 2005. Mr Agwu did not reply.
8. Edell Jones & Lessers were able to write to Gordons on 10<sup>th</sup> March 2005 to confirm that Solicitors Direct had eventually discharged their undertaking.
9. The Law Society authorised an investigating officer, (“the IO”), to inspect the books of account and other documents of Solicitors Direct. Arrangements were made for the inspection to be commenced on 26<sup>th</sup> May 2005. The Law Society sent prior written notification which was delivered and signed for on Saturday 21<sup>st</sup> May 2005. The visit resulted in a report dated 3<sup>rd</sup> June 2005 which was before the Tribunal.
10. The IO attended at the firm's offices of 26<sup>th</sup> May 2005. In a telephone conversation with Mr Agwu, Mr Agwu stated that he had only received the letter on 26<sup>th</sup> May 2005.
11. Despite requests made, no books of account were produced for inspection. Mr Agwu stated that access could be provided to the books of account when the office decoration was finished, but this would be in several weeks time.
12. The Law Society subsequently wrote to Mr Agwu by letters of 14<sup>th</sup> and 30<sup>th</sup> June and 20<sup>th</sup> July 2005. There was no reply. Some correspondence was returned by the Post Office.
13. On 29<sup>th</sup> June 2005 an agent appointed by The Law Society attended at the offices of Solicitors Direct in an attempt to secure papers under Section 44(b) of the Solicitors Act 1974. The offices were unoccupied.

14. The Law Society resolved on 3<sup>rd</sup> August 2005 to intervene into the practice of Solicitors Direct and to refer the conduct of both Respondents to the Tribunal.

Allegation (h)

15. On 13<sup>th</sup> July 2004 an adjudicator of The Law Society granted practising certificates for the year 2003/2004 to the Respondents subject to conditions which included conditions that:-
- (a) The Respondents should attend a Law Society approved course in practice management, and
  - (b) The Respondents provide evidence of such attendance when applying for their next practising certificate.
16. Applications were made for Practising Certificates apparently from both Respondents for the year 2004/2005 without producing any such evidence. The Law Society wrote to the Respondents on 21<sup>st</sup> March 2005. Mr Agwu replied by letter dated 24<sup>th</sup> March with correspondence suggesting that the Respondents had booked to attend an earlier course. There was no response from *RESPONDENT 2* and a further letter was sent to him on 11<sup>th</sup> April 2005.
17. Further letters were sent to the Respondents by The Law Society dated 22<sup>nd</sup> June, 8<sup>th</sup> July and 2<sup>nd</sup> August 2005. Neither Respondent replied to that correspondence.
18. The matter was then considered by an adjudicator of The Law Society on 6<sup>th</sup> September 2005 who referred the conduct of the Respondents to the Tribunal. The Respondents were notified of that referral by letters dated 12<sup>th</sup> September 2005.
19. Messrs Crust Lane Davis LLP Solicitors were retained by clients Mr D and Mr S to purchase residential property at Enfield owned by Mr Agwu. Solicitors Direct acted in the sale. *RESPONDENT 2* was stated to be the nominated lawyer in the transaction. On 10<sup>th</sup> January simultaneous exchange of contracts and completion took place when the purchase funds were sent to and received by Solicitors Direct who had given an undertaking to redeem a charge in favour of Leeds and Holbeck Building Society on or before completion. That mortgage was not redeemed.
20. In due course Leeds and Holbeck Building Society issued possession proceedings against the purchasers. Those proceedings had been adjourned pending an application by the purchasers to the Solicitors Compensation Fund.
21. The Law Society wrote the Respondents about these matters. No explanation had been provided.
22. Solicitors Direct acted for Mr & Mrs A-B who were the owners of a property at Dagenham. Mr and Mrs A-B had borrowed money secured on their property from igroup Mortgages Limited and had arranged with Birmingham Midshires to re-mortgage the property. On 13<sup>th</sup> January 2005 Birmingham Midshires released the advance moneys to Solicitors Direct. The original mortgage to igroup Mortgages Limited was not redeemed

23. The Tribunal had before it details of a number of letters addressed to the Respondents which remained unanswered.

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

24. The Applicant accepted that *RESPONDENT 2* had been unaware of what had been going on at Solicitors Direct.
25. With regard to the two sums of money which should have been utilised to redeem outstanding mortgages, the Applicant was in a position where he could only speculate what had happened to that money. In the submission of the Applicant no explanation was possible save that Mr Agwu had dishonestly misappropriated that money. Mr Agwu appeared to have closed down the practice and no books or records were made available to the IO.
26. Mr Agwu had attempted to mislead the IO.
27. The case against Mr Agwu was put on the basis that he had behaved dishonestly. Claims had been made on The Law Society's Compensation Fund totalling £170,000.00. That figure did not include the redemption moneys in Mr Agwu's own conveyancing transaction.
28. Mr Agwu had been guilty of serious and culpable dishonesty.
29. In *RESPONDENT 2*'s case it appeared that Mr Agwu had signed applications for Practising Certificates on behalf of *RESPONDENT 2* in his capacity as a partner of Solicitors Direct.
30. It was accepted that on the face of the limited papers available relating to the practice, which ceased on intervention, was no evidence of any active part played in Solicitors Direct by *RESPONDENT 2*.
31. It was noted that *RESPONDENT 2* had written to Mr Agwu on 31<sup>st</sup> May 2005 resigning from his position in Solicitors Direct with immediate effect. He had also written a letter to The Law Society indicating that he did not seek to renew his practising certificate. That letter was not received by The Law Society until 3<sup>rd</sup> October 2005 and it was accepted that *RESPONDENT 2* had sent the letter to Mr Agwu for onwards transmission and Mr Agwu had not dealt with the matter promptly.
32. No accounting records had been collected at the time of The Law Society's intervention. Some property had been seized at an address other than that of Solicitors Direct. The Law Society had not been able to take up the whole of the papers relating to the firm of Solicitors Direct. As a result it had not been able to follow a trail of the moneys handled by that firm.

### **The Tribunal's Findings**

33. The Tribunal found all of the allegations to have been substantiated against Mr Agwu. The Tribunal found the single new allegation to have been substantiated against *RESPONDENT 2*, indeed it was not contested.

34. At a hearing on 5<sup>th</sup> June 2003 the Tribunal found the following allegations to have been substantiated against Christopher Onyeka Agwu, *RESPONDENT 2* and Olasheni Ibiwoye, Mr Agwu and *RESPONDENT 2* being solicitors and Mr Ibiwoye being a registered foreign lawyer. The allegations were that Mr Agwu and *RESPONDENT 2* had been guilty of conduct unbefitting a solicitor in each of the following particulars namely:-

- (i) that the books of account of the practice conducted by them were not properly written up contrary to Rule 32 of the Solicitors Accounts Rules 1998;
- (ii) That they had conducted a solicitors' practice without adequate supervision in breach of Practice Rule 13 or otherwise.

The allegations against Mr Ibiwoye were that he had been guilty of conduct unbefitting a registered foreign lawyer in that:-

- (i) the books of account were not properly written up contrary to Rule 32 of the Solicitors Accounts Rules 1998;
- (ii) He conducted a solicitor's practice without adequate supervision in breach of Practice Rule 13 or otherwise.

35. In its findings dated 4<sup>th</sup> July 2003 the Tribunal said:-

“The Tribunal found the allegations to have been substantiated. Indeed, they were not contested. The Tribunal was concerned that there had been a breach of Rule 32 of the Solicitors Accounts Rules 1998 in that books of account were not properly written up. The Tribunal consider this to be a serious failure as the strict accounting requirements are in place to ensure that clients' monies are properly and fairly handled by firms of solicitors who ensure that the interests of the public are protected.

The Tribunal considers the breach of Practice Rule 13 to be very serious indeed. In particular, the Tribunal has noted that Mr Agwu had been in breach of that Practice Rule; that he had been fully aware of the requirements of the Rule; and of the fact that he had been in breach. He had been invited to attend for interview with The Law Society to discuss a waiver but had failed to do so.

With regard to the Respondents' partnership, the Tribunal could not fail to note that they had gained a sufficient length of qualification so that they no longer required external supervision to comply with Rule 13 by running a practice which had for a substantial period of time put them in breach of Rule 13. The Tribunal considers this to be an aggravating factor.

The Tribunal has taken into account as a mitigating factor the fact that all of the Respondents had been qualified as lawyers in the Nigerian jurisdiction and had acquired a reasonable level of experience there. Again, the seriousness of the allegations is underlined by the fact that the level of supervision imposed upon recently qualified solicitors by Practice Rule 13 is in place to ensure that relatively inexperienced solicitors are not able to conduct the affairs of clients without recourse to supervision by a more experienced practitioner. This again is importantly in place to protect the interest of the public and indeed for the purpose of preserving the good reputation of the solicitors' profession.



The Tribunal regarded the breach of Practice Rule 13 to be the more serious of the allegations and had given close consideration to the making of an order that would deprive the Respondents of their ability to practise. In recognition of the fact that The Law Society had not pursued the matter as assiduously as it might have done and taking into account the mitigating feature of the Respondents' long experience in the Nigerian jurisdiction, the Tribunal considered that the breach could be met by a fine to be payable by each Respondent of £5,000.00.

Because Mr Agwu himself accepted that he was primarily responsible for the Solicitors Account Rules breach, it was right that he should pay a fine in respect of that substantiated allegation in the sum of £2,000.00 and because the other two Respondents, although clearly liable under the provisions of the Solicitors Accounts Rules, had a lesser degree of culpability it was right that each of them should pay a fine of £500.00 in respect of this allegation.

The total fine to be paid by Mr Agwu was £7,000.00 and the total fine to be paid by each of the other two Respondents was £5,500.00.

Mr Agwu agreed the Applicant's costs, which included the costs of the FIU Officer, in the sum of £6,143.31. The Tribunal accordingly ordered that the Respondents should pay the costs of the application and enquiry in that sum on the basis that the Respondents should be jointly and severally responsible for the payment of those costs".

### **The Submissions of Mr Agwu**

36. Mr Agwu played no part in the hearing.

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

37. *RESPONDENT 2* continued to be the Attorney General of Nigeria.
38. *RESPONDENT 2* first met Mr Agwu in 1998 while they were both attending seminars in London with a view to becoming qualified as solicitors in England and Wales. At that time *RESPONDENT 2* had been involved, on behalf of commercial clients, in an arbitration in London and was trying to build up his practice in international arbitration. He thought it would be helpful to have a qualification as an English solicitor, but he had no intention of practising in England. Mr Agwu was also a Nigerian attorney but was already based in London and had plans to set up his own firm in London. Mr Agwu suggested that it would be helpful to both of them for *RESPONDENT 2* to become involved in the firm and *RESPONDENT 2* would have a London address for the purpose of his Nigerian firm's arbitration work. It was never envisaged that *RESPONDENT 2* would be an active participant in the London firm.
39. *RESPONDENT 2* had come to realise that showing him as a partner in the firm assisted Mr Agwu in dealing with certain limitations on practice as a sole practitioner. *RESPONDENT 2* had not focused on that at the time.
40. *RESPONDENT 2* had made some enquiries about Mr Agwu among colleagues in the Nigerian legal profession. He was known to a number of them and appeared to be respected. Mr Ibiwoye, a partner in *RESPONDENT 2*'s Nigerian firm, joined Solicitors Direct as a registered foreign lawyer.

41. *RESPONDENT 2* was to receive no salary or share of profits and did not. There was no partnership agreement between Mr Agwu and *RESPONDENT 2*. *RESPONDENT 2* did contribute about £1,000.00 to the original expenses of setting up the office. *RESPONDENT 2* recognised that he was named as a partner on the notepaper and elsewhere and was therefore being held out as such. He regretted that he did not give proper consideration to the responsibility this could impose on him. *RESPONDENT 2* did not become involved in any way with the administration of the firm. *RESPONDENT 2* had no experience in the type of work undertaken and he never saw or dealt with any of the firm's clients. He had no office in the firm's premises. *RESPONDENT 2* had come to recognise that the arrangement where he was named as partner in the firm was foolhardy and misconceived.
42. *RESPONDENT 2* rarely visited the firm's offices during the period when he was named as a partner. He probably came to the United Kingdom around four times a year over that period, but many of those visits were fleeting. Sometimes he was in transit from New York to Nigeria. He certainly did not visit the office on every occasion that he was in the United Kingdom and, indeed when he did go there, it would simply be as a social call.
43. In dealing with the current disciplinary proceedings *RESPONDENT 2* had become aware of the earlier Tribunal proceedings. *RESPONDENT 2* previously had been unaware of them, although Mr Agwu had mentioned to him that The Law Society was taking action against the firm in connection with some technical issues.
44. *RESPONDENT 2* had come to learn that those proceedings led to fines being imposed on all three Respondents, including himself, and orders for payment of costs. Mr Agwu had informed *RESPONDENT 2* that the practice had been ordered by The Law Society to pay a fine of £25,000.00. *RESPONDENT 2* surmised that this figure represented roughly the total of all the orders for fines and costs. He presumed that Mr Agwu himself had made settlement as he was never asked to make any payment.
45. *RESPONDENT 2* naively accepted Mr Agwu's assurances that all problems were temporary and had been corrected.
46. *RESPONDENT 2* had come to learn that, as a result of those earlier disciplinary proceedings, conditions had been imposed on his Practising Certificate. He was never made aware of those conditions at the relevant time, although at Mr Agwu's recommendation he did in fact attend a Practice Management course. Being wholly unaware of this condition *RESPONDENT 2* applied for a new Practising Certificate for the year commencing 1<sup>st</sup> October 2004. The usual procedure for submission of *RESPONDENT 2*'s application for a Practising Certificate was that Mr Agwu would fax to *RESPONDENT 2* a copy of his own completed form which *RESPONDENT 2* could copy onto a new blank form and then sign as his application. On at least one previous occasion it appeared that Mr Agwu had filled in and signed the application on *RESPONDENT 2*'s behalf.
47. Documents had been addressed to *RESPONDENT 2* at an address in Westbourne Terrace. This was a flat which he rented for use on his occasional visits to London and was the original address that he had registered with The Law Society when he was admitted to the Roll in 1999. He moved from that property in around 2000. Letters relating to the current proceedings delivered to that address did not reach *RESPONDENT 2*.

48. *RESPONDENT 2* naturally had been concerned to learn that, as he understood it, the practice had received a fine of £25,000 for accounting irregularities and he was anxious to ensure that there would be no repetition of this. He discussed the matter with Mr Agwu and received assurances from him. *RESPONDENT 2* regretted that he did not take more active steps to ensure that the business was being conducted properly. He had regarded the matter as one of administrative incompetence rather than lack of integrity on the part of Mr Agwu. Until *RESPONDENT 2* became aware of the current allegations against Mr Agwu, he had no reason to doubt his integrity
49. As time went on it made less and less sense for *RESPONDENT 2* to continue his association with a firm in which he was unable to play any active part and from which he was not deriving any benefit. He indicated to Mr Agwu at about the end of 2004 that he wished to resign as a partner in the firm. *RESPONDENT 2* expected Mr Agwu to remove *RESPONDENT 2*'s name from the firm's notepaper and to ensure that other records were duly amended.
50. When *RESPONDENT 2* next visited London in May 2005 he found that Mr Agwu had not taken steps to remove *RESPONDENT 2*'s name from the notepaper or to inform The Law Society of his resignation. *RESPONDENT 2* produced a letter of 31<sup>st</sup> May 2005 notifying The Law Society of his resignation. At the time *RESPONDENT 2* was unaware of The Law Society's letters and visit. Mr Agwu did not bring any of those matters to *RESPONDENT 2*'s attention. *RESPONDENT 2* played no part in nor was he aware of the matters in respect of which allegations were made against him. In particular *RESPONDENT 2* was not aware that he was named as the nominated lawyer in relation to the sale of Mr Agwu's own property.
51. *RESPONDENT 2* had come to recognise that he should never have allowed himself to get into the position that he did. He deeply regretted having done so. Where the allegations related to specific transactions and to the diversion of money by Mr Agwu not only was *RESPONDENT 2* not involved in any way, but he had no reason to believe from his own dealings with Mr Agwu that he would have been capable of any conduct of that sort.

### **The Tribunal's Decision and its Reasons**

52. The Tribunal accepted *RESPONDENT 2*'s explanations. He himself accepted that he was naïve to allow his name to be associated with the firm of Solicitors Direct when he was not an active partner and was not exercising any control. The Tribunal accepted that *RESPONDENT 2* was duped by Mr Agwu at a time when he had made informal enquiry and had no reason to suppose that Mr Agwu was anything other than a man of integrity.
53. *RESPONDENT 2* is a solicitor qualified in England and Wales and the responsibilities which he must bear, having achieved such qualification, could not be abdicated. The Tribunal gave *RESPONDENT 2* credit for taking the trouble to attend before the Tribunal, to give his detailed explanations and the Tribunal took into account the not inconsiderable degree of personal embarrassment that these proceedings had brought to *RESPONDENT 2*. The Tribunal considered that it was right in all of the circumstances that *RESPONDENT 2* should pay a financial penalty of £2,000.00.
54. The Tribunal, found all of the allegations to have been substantiated against Mr Agwu, including a finding that he had behaved dishonestly in particular having regard to the fact that he had on two occasions given an undertaking to redeem mortgages, had

received the monies to enable him to do so and had not applied the monies for that purpose which in turn placed the purchasers of property in a precarious and difficult position when possession proceedings were commenced by the existing mortgagees. This conduct demonstrated seriously dishonest behaviour on Mr Agwu's part which could not be tolerated by the solicitors' profession. The Tribunal Ordered that Mr Agwu be struck off the Roll of Solicitors.

55. With regard to the question of costs the Applicant sought the costs of and incidental to the application and enquiry to include the costs of the IO ( such costs having been considerably increased by the fact that enquiry agents had to be instructed to ascertain the whereabouts of the Respondents), were amounting in total to £17,929.00. It was said on behalf of *RESPONDENT 2* that no issue could be taken with that quantum. Mr Agwu had not made any representations about costs.
56. The Tribunal was minded, so as not to incur further expenditure of time and costs on this matter, to fix the costs in the sum sought. The Tribunal was invited to make an apportionment of the costs as between Mr Agwu and *RESPONDENT 2*. The Tribunal was mindful of the fact that Mr Agwu bore the greater culpability. In the circumstances the Tribunal considered that it would be both appropriate and proportionate to Order that *RESPONDENT 2* should pay a contribution of £4,000.00 to the overall costs and that the balance should be met by Mr Agwu.

DATED this 28<sup>th</sup> day of February 2007

on behalf of the Tribunal

I R Woolfe  
Chairman