

IN THE MATTER OF CATHERINE BONG AND [*RESPONDENT 2 – NAME
REDACTED*]
, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mrs H Baucher (in the chair)
Mr L N Gilford
Mr M C Baughan

Date of Hearing: 17th October 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 George Marriott, solicitor and partner in the firm of Gorvins of 4 Davey Avenue, Knowlhill, Milton Keynes, MK5 8NL on 7th March 2006 that Catherine Bong of CB Law, Grosvenor House, 98 London Road, Leicester, LE2 OQS and *RESPONDENT 2*, Leicester, LE2, solicitors, 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 against Mrs Bong were that she had been guilty of conduct unbecoming a solicitor in that she:

1. Failed to make client bank account reconciliations contrary to Rule 32(7) of the Solicitors Accounts Rules 1998;
2. Failed to keep up to date accounting records contrary to Rule 32(1)(c) of the Solicitors Accounts Rules 1998;

3. Failed to record office money relating to client matters on the office side of the appropriate client ledger account contrary to Rule 32(4) of the Solicitors Accounts Rules 1998;
4. Failed to distinguish on bills between fees, disbursements not yet paid at the date of the bill and paid disbursements contrary to Rule 32(8) of the Solicitors Accounts Rules 1998;
5. Failed to comply with the Solicitors Accounts Rules 1998 contrary to Rule 6;
6. Failed to remedy the breaches of the Solicitors Accounts Rules 1998 contrary to Rule 7;
7. In conveyancing matters failed to advise the lender that she would not have control over all the purchase monies contrary to Rule 6 of the Solicitors Practice Rules 1990;
8. Failed to inform the lender in writing in conveyancing transactions that she was also acting for the seller and the buyer contrary to Rule 6 of the Solicitors Practice Rules 1990;
9. Contrary to CML Handbook and Rules 6 of The Solicitors Practice Rule 1990 wrongly submitted unqualified certificates of title;
10. Dishonestly held the Second Respondent out as a partner in her practice when that was not the case;
11. Entered dishonestly into a sham partnership with the Second Respondent;
12. By holding out the Second Respondent as a partner in her practice breached the Solicitors Publicity Code 2001;
13. When applying for a practising certificate dishonestly made a false statement;
14. [Withdrawn]
15. Understated her gross fees for the purposes of the SIF return;
16. Under declared her VAT liability to HMRC;
17. Took advantage of clients by charging them for a disbursement when no disbursement was incurred.

The allegations against *RESPONDENT 2*, were that he had been guilty of conduct unbecoming a solicitor in that he:

18. Failed to make client bank account reconciliations contrary to Rule 32(7) of the Solicitors Accounts Rules 1998;
19. Failed to keep up to date accounting records contrary to Rule 32(1)(c) of the Solicitors Accounts Rules 1998;

20. Failed to record office money relating to client matters on the office side of the appropriate client ledger account contrary to Rule 32(4) of the Solicitors Accounts Rules 1998;
21. Failed to distinguish on bills between fees, disbursements not yet paid at the date of the bill and paid disbursements contrary to Rule 32(8) of the Solicitors Accounts Rules 1998;
22. Failed to comply with the Solicitors Accounts Rules 1998 contrary to Rule 6;
23. Failed to remedy the breaches of the Solicitors Accounts Rules 1998 contrary to Rule 7;
24. Dishonestly held the Second Respondent out as a partner in his practice when that was not the case;
25. Entered dishonestly into a sham partnership with the First Respondent;
26. By holding out Mrs Bong as a partner in his practice breached the Solicitors Publicity Code 2001;
27. When applying for a practising certificate dishonestly made a false statement.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 17th October 2006 when George Marriott appeared as the Applicant, Mr Aaronberg of Counsel appeared for Mrs Bong and Stephen John Battersby, solicitor, appeared for *RESPONDENT 2*.

The evidence before the Tribunal included the Respondents' admissions of the facts and the allegations. They denied that they had been dishonest. Documents handed up at the hearing included copy correspondence on behalf of *RESPONDENT 2* and an Accountant's Report for Mrs Bong and a form completed and sent to The Law Society by Mrs Bong "Professional History of Partner." Both Respondents gave oral evidence.

At the conclusion of the hearing the Tribunal made the following Orders:

The Tribunal Orders that the Respondent, Catherine Bong of Grosvenor House, 98 London Road, Leicester, LE2 1HL, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 17th day of November 2006 and they further Order that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £16,000.00.

The Tribunal Orders that the Respondent, *RESPONDENT 2*, Leicester, LE2, solicitor, do pay a fine of £1,000.00, such penalty to be forfeit to Her Majesty the Queen, and they further Order that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,000.00.

The history of the Respondents

1. Mrs Bong, born in 1943, was admitted as a solicitor in 1998. She practised on her own account as CB Law from Grosvenor House, 98 London Road, Leicester. Prior to qualifying as a solicitor Mrs Bong had been a teacher.

2. *RESPONDENT 2*, born in 1961, was admitted as a solicitor in 1991. He practised as I & Co – *FULL NAME REDACTED* from, Leicester.
3. An inspection of the books of account and other documents of Mrs Bong by The Law Society began on 23rd June 2004. The Law Society's Investigator produced a Report dated 13th May 2005 which was before the Tribunal.
4. The last reconciliation to 30th April 2004 included some unpresented cheques which had in fact been presented to the bank and therefore were deficient. As at that date the accounting records showed a surplus book difference of £3,484.95.
5. Payment of disbursements from office bank account in respect of individual client matters had not been recorded in the office column of the relevant client ledger.
6. In bills of costs, disbursements had not been distinguished from fees and were not categorised as being paid or unpaid.
7. Mrs Bong explained on 23rd June 2004 that she only had a part time bookkeeper who attended at the office approximately one day per week and that her firm's computer system had crashed resulting in the creation of the book difference which still existed.
8. On 9th July 2004 Mrs Bong stated that the bookkeeper had left to go on maternity leave but she had made arrangements for a new bookkeeper.
9. On 13th August 2005 Mrs Bong told The Law Society that her bookkeeper had changed again but there was a client bank account reconciliation from April 2003 to January 2004 and that once the work had been done copies would be supplied to The Law Society.
10. Mrs Bong further stated that the reconciliations for the three months April, May and June 2004 had been prepared on 8th September 2004. She sent the reconciliations for March, April and May 2004 to The Law Society on 15th September 2004.
11. The reconciliation to 30th April 2004 showed more entries for unpresented cheques when compared with the original reconciliation provided on 23rd June.
12. The documents provided to The Law Society showed a cash book balance as at 30th April 2004 of £234,388.21 whereas the client ledger balance as at the same date was £240,209.23, a difference of £5,821.02.
13. A further examination conducted by The Law Society on 17th November 2004 revealed that as at 1st June 2004 the client bank reconciliation showed an adjusted bank balance of £367,884.93 and an adjusted cash book balance of £367,675.20 making a difference of £209.73.
14. The Law Society asserted that the revised client bank reconciliations for 30th April 2004 and 1st June 2004 could not be relied upon as the reconciled funds did not match to the list of client ledger balances. Accordingly The Law Society could not confirm whether Mrs Bong held sufficient monies to meet her liabilities to clients.

15. Pursuant to Rule 6(3) of the Solicitors Practice Rules 1990, a solicitor when acting for a lender and borrower in a conveyancing transaction was obliged to inform the lender in writing if she did not have control over the payment of all the purchase monies. She was also obliged to inform the lender in writing if she was also acting for the seller. This was reinforced by the Council of Mortgage Lenders Handbook and by warnings given by The Law Society in respect of property fraud via the "green card".
16. In three matters examined by The Law Society Mrs Bong did not advise the lender that she would not have control over payment of all the purchase monies or that part of the purchase price was to be satisfied by a non cash incentive for the buyer. Equally she did not inform the lender in writing that she was also acting for the seller she later stated that whilst she was aware of the rules and guidance she did not believe that there was property fraud in any of the transactions.
17. The Law Society's Inspector noted three particular matters.

Mr S

18. Mrs Bong acted for Mr S in his purchase of property for £85,000. An institutional lender provided a mortgage advance of £64,985. The lender required Mrs Bong to act in accordance with the CML Handbook. The mortgage advance was credited to the client ledger and £63,500 was transferred to the ledger of RS. No other transfers were made to the ledger of RS.
19. There was no evidence on the file that the institutional lender had been notified that a deposit of £21,500 had been paid direct to the seller. Mrs Bong stated that she had submitted an unqualified certificate of title. She did not notify the lender in writing that she was acting not only for the lender but also for the buyer and the seller.
20. Mrs Bong explained that the deposit had been paid direct in order to stop a repossession. A financial advisor had made the lender aware of this when arranging the mortgage.
21. Mrs Bong accepted that she was in breach of Practice Rule 6 as she had not informed the lender for whom she was acting and in letters dated 18th March and 3rd August 2005. She agreed she was aware of The Law Society guidance on property fraud. She stated she did not believe there was any property fraud.

Mr P

22. Mrs Bong acted for Mr P in his purchase of property from SB for £80,000. Mrs Bong also acted for SB and the institutional lender who provided a mortgage advance of £71,400. Instructions from the institutional lender required her to act in accordance with the CML Handbook.
23. A mortgage advance of £71,400 was made in October 2002 and purchase monies totalling £71,000 were transferred to the seller's ledger on 1st November 2002. No other transfers of money to the seller were recorded on the ledger.
24. There was nothing on the file to demonstrate the institutional lender had been notified that a deposit of £9,000 had been paid direct to the seller.

25. Mrs Bong submitted an unqualified certificate of title to the lender immediately prior to completion.
26. There was no evidence on the file the institutional lender had been notified that Mrs Bong was acting for all parties.
27. Mrs Bong explained she believed the deposit paid direct was used by HP to stop an enforcement order and to avoid a sale by the mortgagee in possession.

Mr L

28. Mrs Bong acted for Mr L in his purchase of property from GL at a price of £140,000. Mrs Bong also acted for GL and the institutional lender who provided a mortgage advance of £118,975. The instructions from the institutional lender required Mrs Bong to act in accordance with the CML Handbook.
29. The client ledger for the purchaser showed that the mortgage advance monies had been received from the institutional lender in January 2003 and purchase monies totalling £112,840 were transferred to the ledger of GL later that month. Further a transfer in the sum of £3,500 was also made to the ledger of GL on 3rd April 2003 with the narrative "refund of deposit". No other transfers of monies to GL's client ledger were recorded.
30. Prior to completion Mrs Bong submitted an unqualified certificate of title to the lender.
31. There was no evidence the institutional lender was notified of the apparent gifting of part of the purchase price and no evidence that Mrs Bong had notified the institutional lender she was acting for all three parties.
32. Mrs Bong's explanation included in her letter of 18th March 2005 was that the client's financial advisor had made the lender aware of the gift and therefore she had not misled the lender by submitting an unqualified certificate of title. The property would not sell and therefore GL had decided to sell the property to DL by way of a part gift.
33. On her Solicitor's Indemnity Fund annual return Mrs Bong's gross fees were described as £97,600 for the period 2nd April 2002 to 1st April 2003. Her practice accounts for the year ended 5th April 2003 showed fees and expenses receivable of £122,696 making an understatement of £25,096 or 20.45%.
34. Mrs Bong's explanation was that the practice accounts included expenses and disbursements which did not form part of the gross income as required by the SIF (23). She said her system did not properly distinguish between costs and disbursements.
35. The Law Society reviewed the period January 2004 to April 2004 and identified fees described as disbursements, charged by Mrs Bong on which no VAT had been declared.
36. Mrs Bong told the FIO that she did not know whether an arrangement fee was a fee or a disbursement but agreed other categories of charge were additional fees for her firm and therefore she had possibly under declared VAT. The Law Society identified the potential undeclared VAT in relation to these matters was in excess of £2,000. Mrs Bong accepted

that she would jeopardise the reputation of the solicitors' profession by evading the collection of and payment of VAT.

37. The FIO's examination of a number of Mrs Bong's files revealed clients were informed out of pocket expenses or disbursements of £40 plus VAT would be incurred or that a small fee might be charged for telegraphic transfers.
38. On all of the files reviewed, clients were charged £47 when a bank telegraphic transfer was made. In the bills this amount was described separately from costs as "a bank fee", and this amount was shown as "monies paid" with the same description in the completion statement.
39. Mrs Bong agreed her bank did not charge for making telegraphic transfers and during the period January 2004 to April 2004 her total charges for bank telegraphic transfers was £2,679. In five of the 27 matters reviewed, no telegraphic transfer had been made but the client had been charged.
40. Mrs Bong explained that initially her bank had charged for "TT's" but later agreed not to. The charge for TT's to clients was inadvertent.
41. In order to renew their practising certificates for the year 2003/2004 both Respondents completed a Law Society form RF1. In Mrs Bong's form she stated that *RESPONDENT 2* was a partner in CB Law and on *RESPONDENT 2*'s form he stated that Mrs Bong was a partner in I & Co – *FULL NAME REDACTED*.
42. The form RF1 had a declaration immediately above both Respondents' signatures which stated:

"I have taken reasonable steps to make certain that the information provided in this form is correct and complete."

Similar forms were completed by both Respondents for the year 2004/2005 and as far as Mrs Bong was concerned for 2005/2006. Mrs Bong notified The Law Society on 30th September 2005 "the partnership ceased with effect from 1st May 2004."

43. The letterhead for CB Law gave equal prominence to the names of both Respondents.
44. When questioned about this, on 23rd June 2004 Mrs Bong told The Law Society she was a sole principal: there was no formal partnership agreement with *RESPONDENT 2*, who did not receive a salary or a share of her profits: *RESPONDENT 2* did not take part in the day to day running of her firm nor was he involved in the decision-making processes of her firm. He did not undertake any fee earning work for her firm.
45. On 13th August 2004 The Law Society met with both Respondents. Mrs Bong explained that initially she had approached *RESPONDENT 2* on the basis they could be of assistance to each other for the purposes of work referral, locum cover and to have greater credibility with institutional lenders.
46. *RESPONDENT 2* stated that he was aware he was named on Mrs Bong's letterhead. He confirmed that the name of Mrs Bong was on the notepaper of I & Co – *FULL NAME*

REDACTED. He said he understood that many other sole practitioners operated in this way.

47. In her letters to The Law Society dated 3rd August 2005 and 5th October 2005. Mrs Bong stated that *RESPONDENT 2* was no longer in association with her. At the material time he was an associated partner and not an equity partner: she did not intend to mislead anyone. Supervision in times of absence was covered and that idea was adopted because other firms did the same thing. Further, it prevented prejudice against a sole practitioner from an institutional lender: she said it was not a "sham partnership". She had then deleted *RESPONDENT 2*'s name from her notepaper as from 1st May 2004.
48. *RESPONDENT 2* wrote to The Law Society by letters dated 5th August 2005 and 13th October 2005. He explained he had never practised in partnership with Mrs Bong. The idea had been to provide cover during holidays and sickness and to make referrals to each other. *RESPONDENT 2* had been reluctant about Mrs Bong's initial proposal but had been persuaded in view of assurances she gave him. *RESPONDENT 2* had been advised by another solicitor that this type of arrangement happened in the case of other sole practitioners. *RESPONDENT 2* had been assured by Mrs Bong that all was in order and she had given him a written indemnity and had agreed to a trial period. The intention had been to show that theirs were associated practices but not that they were in partnership. *RESPONDENT 2* disagreed that they held themselves out as partners and his letterheading was in any way misleading.

The Submissions of the Applicant

The question of dishonesty

49. The Applicant put allegations 10, 11 and 13 against Mrs Bong and allegations 24, 15 and 27 against *RESPONDENT 2* as revealing dishonesty on both of their parts.
50. It was the Applicant's case the Respondents had held themselves out as partners whereas in reality what they claimed to be a partnership was a sham. Dishonest false statements as to the nature of the partnership had been made to The Law Society when applying for practising certificates.
51. In order to renew their practising certificates for the year 2003/2004, both Respondents completed a Law Society form RF1. In Mrs Bong's form she stated that *RESPONDENT 2* was a partner in CB Law and on *RESPONDENT 2*'s form he stated that Mrs Bong was a partner in I & Co – *FULL NAME REDACTED*.
52. It was common ground the practising certificate application forms sent to the Respondents had been completed by The Law Society before being sent. The names of both Respondents appeared on each of their forms of application. It was, however, a matter for individual solicitors to check their forms of application for a practising certificate. In signing the form they were making a formal declaration that the contents of the form were true.
53. The Applicant had been unable to explain why The Law Society should put both of the Respondents' names on their individual practising certificate applications. The only

conclusion that could be reached was one of the Respondents had given that information to The Law Society.

54. The Respondents' names appeared on the notepaper of both firms without any qualification. Where solicitors' names appeared on notepaper without any qualification they were, of course, deemed to be partners. Some institutional lenders declined to give instructions to sole practitioners. Mrs Bong had told The Law Society one of the reasons for making it appear that the Respondents were in partnership was to give greater credibility to such prospective clients. Such arrangement would have misled such institutional lenders into thinking that each firm was a two partner firm or a larger firm than was the case and not that the two firms were intended to be in association rather than the two Respondents being in partnership.
55. *RESPONDENT 2* had not given that explanation but had accepted advice from another that many that sole practitioners operated in that way.
56. In the submission of the Applicant the Respondents had made it appear that they were in partnership in order to secure an advantage and that had been done dishonestly.
57. The Tribunal was invited to apply the test in the case of Twinsectra Ltd v Yardley and Others [2002] UKHL 12. It was accepted that the standard of proof to be applied in deciding this was a high one. If it had been the Respondents' intention to indicate that they were partners in order to secure an advantage, it was difficult to see what explanation other than dishonesty could be put forward.

The Submissions of Mrs Bong

58. Mrs Bong had suggested to *RESPONDENT 2* they have an arrangement for reciprocal office cover. She had heard that other solicitors had an arrangement whereby they worked together and could call upon each other for help.
59. It had not been Mrs Bong's intention to give any impression either by names on her letterhead or in any other way that *RESPONDENT 2* and she were partners.
60. The purpose of what she described as a "partnership arrangement" was that he could provide cover to her should she fall ill or go away on holiday. She understood that his name on the letterhead identified him to clients for this purpose.
61. Mrs Bong had submitted annual Accountant's Reports to The Law Society and in each of these she had been described as a sole trader. It had never been Mrs Bong's intention to deceive The Law Society. She had never intended to convey anything other than her firm was run by her as a sole principal. She accepted that she had signed the form as a "partner" but it had never been her intention to mislead and she had never been a partner at all.
62. Mrs Bong believed that she and *RESPONDENT 2* were working in association but had not in real terms been partners.
63. Since questions had arisen about the Respondents' status, Mrs Bong had looked at the professional rules relating to publicity and accepted the effect of putting both names on

her letterhead was that they were holding themselves out as partners. They had not entered into a partnership and they had no intention to indicate to the public they were equal partners.

64. Mrs Bong accepted she had agreed to her name appearing on the letterhead of the firm where she formerly worked. She had not been a partner, which the letterhead indicated, and as a result she would have been in trouble. The Law Society had explained to her what having her name on the paper meant. Mrs Bong agreed this was the case but advised she had been held out as a salaried partner by the former firm without her knowledge. She had understood there was a problem if the name of a non-partner appeared on the letterhead of a firm of solicitors. She thought that putting *RESPONDENT 2*'s name on her letterhead indicated a locum arrangement and was acceptable.
65. Mrs Bong agreed that she had given *RESPONDENT 2* an indemnity when he asked for one. She disagreed that she had given the indemnity to him because he was a partner in her business. She was of the view that there would have been no need to give *RESPONDENT 2* an indemnity had he been a partner as he would have been covered by her professional indemnity policy.
66. Mrs Bong agreed that she had signed a form sent to The Law Society as "solicitor/partner". She had used the word "partner" because she meant it to indicate a "partnership arrangement". She made a mistake. She had not been in a partnership and she should have just signed "solicitor". She accepted that the proper way of dealing with the situation would have been to make it plain on her firm's letterhead that *RESPONDENT 2* and she were in association.
67. Mrs Bong accepted she had notified The Law Society that *RESPONDENT 2* had "ceased to be a partner". She accepted that she had made a mistake and she should have said that in fact he had never been a partner. Mrs Bong thought that the term "partnership arrangement" was acceptable as a way of indicating the type of arrangement that existed between her and *RESPONDENT 2*.
68. Mrs Bong handed up the questionnaire completed by The Law Society's Investigation Accountant when he inspected her firm in which Mrs Bong described the arrangements in the following way: "Had a partnership arrangement on holidays cover approx six to 12 months". Mrs Bong reiterated that she thought the expression "partnership arrangement" was appropriate and reiterated that she and *RESPONDENT 2* were working in association and were not partners.
69. Mrs Bong had not had to call upon *RESPONDENT 2* for cover as she had not been ill and had not taken any holidays. She had not needed any emergency cover.

The Submissions of *RESPONDENT 2*

70. *RESPONDENT 2* did not dispute the facts upon which the Applicant based his allegations with regard to the arrangement which he had with Mrs Bong.
71. *RESPONDENT 2* had expanded his work to include conveyancing and his firm was on the panel for most of the main mortgage lenders. There were just a few cases where the

firm could not act for lenders and lost the client as a result. It could not be said that having the name of Mrs Bong on *RESPONDENT 2*'s letterhead would have had any substantial effect on the number of instructions he had from institutional mortgage lenders.

72. *RESPONDENT 2* had been approached by Mrs Bong in March/April 2003. His office had been established for five years. Mrs Bong's office was about half a mile from that of *RESPONDENT 2* and he knew her practice. He had no reason to doubt her integrity or credentials.
73. Mrs Bong had suggested that they enter into an arrangement whereby they would work together as associated practices. She explained that she had previously been engaged in a similar arrangement with another solicitor.
74. *RESPONDENT 2* had worked on his own for five years and did not particularly want to take on the responsibility of working with someone else. He was not keen on Mrs Bong's proposal. He told her he was reluctant and explained that he was concerned about the risk of becoming responsible for her liabilities. Mrs Bong told *RESPONDENT 2* that the arrangement that she had previously entered into with another solicitor had been approved by The Law Society and he accepted that.
75. *RESPONDENT 2* had spoken to other solicitors in the locality about the proposal. One of them was in an arrangement similar to that being proposed by Mrs Bong and another solicitor well known to *RESPONDENT 2* told him that he was aware of other sole practitioners having such associations.
76. *RESPONDENT 2* then agreed to enter the arrangement with Mrs Bong. The arrangement was not just to get on to the panels of additional lenders. They agreed to provide cover for each other during holidays or sickness, to share resources (books and other materials) and to refer clients to each other in appropriate cases. During the period that the arrangement was in operation the need for cover did not arise. It was a comfort to know that help would have been at hand should that have been necessary.
77. *RESPONDENT 2* did not appreciate that the arrangement could have been viewed as improper. It was only upon receiving a letter from The Law Society in July 2005 that *RESPONDENT 2* realised the view being taken of the matter. Immediately he ceased to have Mrs Bong's name on his letterhead. He wished he had checked the position with The Law Society before entering into the arrangement.
78. It was not *RESPONDENT 2*'s intention to deceive potential lender clients or anybody else. He had come to accept and understand the significance of his name being shown on the notepaper of Mrs Bong's firm and her name being shown on the notepaper of his firm. He understood that by having the names on the notepaper in this way they were holding themselves out as partners in each other's practice. An irony was that *RESPONDENT 2* had had to accept liability for Mrs Bong's breaches of the Solicitors Accounts Rules. He had no actual knowledge of such matters and it was exactly that sort of liability which had caused him concern and reluctance to enter the arrangement.
79. When *RESPONDENT 2* submitted his application for a practising certificate on which it was printed that he and Mrs Bong were partners, he had no intention to mislead The Law

Society. With the benefit of hindsight he accepted that the forms had the potential to mislead. He did however describe his status as "Principal" rather than "Partner". *RESPONDENT 2*'s Accountant's Reports made it clear he was a sole principal and made no mention of Mrs Bong.

80. He deeply regretted the decision to enter into the arrangement with Mrs Bong. He would never have done so had he known that it was improper. He was not acting dishonestly. He put an end to the arrangement as soon as he became aware that it was not acceptable to The Law Society.
81. *RESPONDENT 2* accepted that he had acted foolishly and had been persuaded against his better judgement to enter into the arrangement. There had been no intention to mislead anybody nor indeed was there any evidence that anybody had been misled. No-one had suffered any loss and there had not been any complaint. A number of lender clients who had been approached confirmed that the apparent partnership was not a factor in giving either firm instructions.
82. *RESPONDENT 2* had entered into the arrangement in order that he might provide a better service for existing clients. He and Mrs Bong had each other's help and support should the need arise.

The Tribunal's Finding on the question of dishonesty

83. The Tribunal finds it extraordinary that two people who have qualified as solicitors should consider that a name on a letterhead indicating to all who read it that that person is a partner when the persons concerned had not entered a partnership could be an acceptable state of affairs. Mrs Bong's evidence and her explanations were muddled and confusing. She herself appeared to think that the expression "partnership arrangement" meant something other than a partnership. The Tribunal has however accepted that she was foolish and stupid and had not set out to gain financial or other advantage by misleading and had not been dishonest as it was her genuine belief that she could record the proposed association with *RESPONDENT 2* in the way she did.
84. *RESPONDENT 2*, having giving the matter some careful thought and having been somewhat reluctant, nevertheless entered into the arrangement with Mrs Bong. He believed it was a mutual help arrangement and foolishly had given no thought to the position where his name appeared on her firm's notepaper and her name appeared on his firm's notepaper without qualification. Again, the Tribunal concluded that *RESPONDENT 2* had been foolish but had not been dishonest.

The Submissions of the Applicant

85. It was recognised *RESPONDENT 2* was liable for the Solicitors Accounts Rules breaches because he had been held out as a partner of Mrs Bong. The breaches had occurred at Mrs Bong's practice and it was accepted the culpability was hers. Mrs Bong had admitted the breaches.
86. The FIO had discovered an unsatisfactory picture. Mrs Bong's books of account revealed an unsatisfactory state of affairs and she had acted in breach of the Solicitors Practice Rules in conveyancing transactions. She had not acted properly when instructed by

institutional mortgage lenders and although Mrs Bong did not believe that the clients concerned had perpetrated fraud, her failure to comply punctiliously with institutional lending clients' requirements and to act in their best interest might well have created an atmosphere in which mortgage fraud might have been facilitated.

The Submissions of Mrs Bong

87. Mrs Bong accepted that she was responsible for the breaches of the Solicitors Accounts Rules. She accepted that *RESPONDENT 2* had never had anything to do with her accounts.
88. Mrs Bong had employed and relied upon two bookkeepers. Difficulties kept appearing and she brought in new accountants to produce annual Accountant's Reports for The Law Society. Mrs Bong had taken all proper steps to ensure that her business had been conducted on a proper footing.
89. Mrs Bong had fallen into error. She had been a mature entrant to the solicitors' profession having qualified in her late 50's and having previously worked as a teacher. She had not had a wealth of experience as a solicitor. Mrs Bong had formulated no intention to deceive institutional mortgage lenders. She had not failed to communicate information to these bodies but had failed to put information in writing.
90. Mrs Bong accepted that she incorrectly completed her Solicitors Indemnity Fund return. She had not done so intentionally.
91. At the time of the hearing Mrs Bong was in a limited liability partnership. She hoped that the way ahead would be for her to put her mistakes behind her. She would have to bear the cost of the disciplinary proceedings. She felt responsible for the costs incurred by *RESPONDENT 2* and felt honour bound to meet those costs.

The Submissions of *RESPONDENT 2*

92. The disciplinary proceedings and what had preceded them had been a dreadful experience for *RESPONDENT 2* and his family and friends. Two years had passed since The Law Society's inspection. *RESPONDENT 2* had been greatly relieved by the Tribunal's ruling that he had not acted with dishonesty.
93. *RESPONDENT 2* accepted that what he had allowed to happen had been wrong. He gained no advantage by being held out as a partner of Mrs Bong but had suffered a number of disadvantages not the least of which was his liability under the Rules for breaches of the Solicitors Accounts Rules. He had played no part in the accounting procedures for Mrs Bong and was not culpable in respect of those breaches.
94. *RESPONDENT 2* was desperately sorry and invited the Tribunal to take account of the mitigating circumstances which he had set out in a written statement.
95. *RESPONDENT 2* was glad that as a result of his mistakes no-one had lost anything and, indeed, no-one had complained or had suffered in any way.

96. *RESPONDENT 2* had learned a hard lesson. The Tribunal might be assured that there would be no repetition of what had occurred.
97. The Tribunal was invited to give due weight to the many written references handed up in his support.
98. The question of costs had been discussed and the quantum had been agreed.

The Tribunal's Findings

99. The Tribunal found all of the allegations to have been substantiated, indeed they were not contested. The Tribunal reiterated its decision that it found neither Respondent to have been dishonest.

The Tribunal's decision and its reasons

100. The Tribunal accepted that Mrs Bong's level of experience within the solicitors' profession was rather less than might have been usual for a solicitor of her maturity. The Tribunal accepted the arrangement that she proposed to *RESPONDENT 2* was not intended by her to be a "sham partnership" in order to make either of their firms appear more substantial than was the case or with a view to persuading institutional lenders that they were not sole practitioners. The Tribunal accepted that in the forefront of her mind she had hoped that should she be ill or take a holiday, cover would be available and she would have another solicitor to whom she might turn for advice. On its face that appeared a sensible consideration which would operate in the best interests of her clients. She clearly had not understood fully the position and perhaps had not given it an appropriate level of thought and had not taken advice. However the Tribunal were mindful that Mrs Bong had experienced a similar "problem" before. The effect of her actions was to indicate to clients and the world at large that she and *RESPONDENT 2* were in partnership.
101. The Tribunal considers that the breaches of the Solicitors Accounts Rules and the Solicitors Practice Rules were perhaps largely due to her lack of experience but, however, she was a qualified solicitor and was required both to understand and comply with the rules relating to practice as a solicitor.
102. The Tribunal was in all of the circumstances very concerned about Mrs Bong's ability to practise as a solicitor given the extent and range of the allegations which had been found proved. The Tribunal concluded that in order to protect the public and to protect the good reputation of the solicitors' profession it was both right and proportionate that Mrs Bong be suspended from practice as a solicitor for an indefinite period of time. It would, of course, be open to Mrs Bong to apply to the Tribunal for her suspension to be brought to an end. Whilst this Tribunal does not seek to fetter the powers of any future Tribunal, it considers that it would be helpful to point out that such an application would not be favourably received unless Mrs Bong was able to demonstrate that she had established a greater experience of working in the solicitors' profession by working as an unadmitted clerk in a solicitors' firm with the consent of The Law Society and she could demonstrate that she had carefully studied and understood the Rules relating to professional practice.

103. With regard to *RESPONDENT 2* the Tribunal accepted he had entered the arrangement with Mrs Bong, having taken some advice, somewhat reluctantly and against his own better judgement. It was a matter for regret that he had not fully understood the effect of having his name on Mrs Bong's letterhead or having her name on his letterhead. He had come to accept that dealing with the matter in the way that he did led to his being held out as being in partnership with Mrs Bong and he accepted the unfortunate consequences that followed. The Tribunal accepted that *RESPONDENT 2* was not culpable for the breaches for which Mrs Bong alone was responsible, but he could not avoid liability under the Rules.
104. The Tribunal gave *RESPONDENT 2* credit for his acceptance of the position and the testimonials written in his support. The Tribunal found him to be straightforward and honest when he gave evidence. The Tribunal concluded that it would be appropriate and proportionate to impose a fine of £1,000 upon *RESPONDENT 2*.
105. With regard to the question of costs, the Tribunal concluded that it would be right to mark Mrs Bong's rather greater culpability than that of *RESPONDENT 2* by ordering her to pay £16,000 of The Law Society's costs and *RESPONDENT 2* to pay £2,000 of The Law Society's costs (both Respondents having agreed that The Law Society's costs be fixed in the sum of £18,0000).

DATED this 27th day of November 2006
on behalf of the Tribunal

H Baucher
Chairman