No. 9516-2006

IN THE MATTER OF JOYCE FORTUNATE BENSON and
EDWARD ABAYOMI CHUKWUEMEKA KEAZOR, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr L N Gilford (in the chair)
Miss N Lucking
Mrs N Chavda

Date of Hearing: 17th April 2007

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# FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Law Society by Jonathan Richard Goodwin, of Jonathan Goodwin Solicitor Advocate, 17e Telford Court, Dunkirk Lea, Chester Gates, Chester, CH1 6LT on 30th June 2006 that Joyce Fortunate Benson, solicitor of George Street, London, W1H and Edward Abayomi Chukwuemeka Keazor, solicitor of Weir Hall Avenue, London, N18 might be required to answer the allegations set out in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegations against Joyce Fortunate Benson ("the First Respondent") and Edward Abayomi Chukwuemeka Keazor ("the Second Respondent") were that they had been guilty of conduct unbefitting a solicitor in each of the following particulars, namely that:-

(i) contrary to Rule 7 of the Solicitors Accounts Rules 1998 ("the Rules") they failed to rectify breaches to the Accounts Rules promptly upon discovery;

(ii) they withdrew money from client account other than as permitted by Rule 22 of the Rules;

(iii) they misappropriated clients' funds (which for the avoidance of doubt was an allegation of dishonesty);

(iv) they utilised clients' funds for their own benefit;

(v) they utilised client funds for the benefit of other clients;

(vi) contrary to Rule 32 of the Rules they failed to keep accounts properly written up;

(vii) contrary to Rule 32(7) of the Rules they failed to carry out the required reconciliations;

(viii) contrary to Rule 34 of the Rules they failed to produce documentation when requested to do so by the Investigation Officer(s) of the Law Society and/or delayed in the production of signed authorities to enable the Investigation Officer(s) to contact their bank.

By a supplemental statement of Jonathan Richard Goodwin dated 6th February 2007 it was further alleged against the First Respondent that she had been guilty of conduct unbefitting a solicitor in that:-

(ix) on 26th July 1982 at Uxbridge Magistrates Court she was convicted upon her own confession for evasion of chargeable duty contrary to Section 3(1) of the Misuse of Drugs Act 1971 and/or Section 170(2) of the Customs & Excise Management Act 1979, and was sentenced to three months' imprisonment suspended for two years and fined £400;

(x) on 14th July 1992 she was convicted at Marlborough Street Magistrates Court of attempting to dishonestly obtain property by deception contrary to Section 1(1) of the Criminal Attempts Act 1981 and was sentenced to a fine of £50;

(xi) on 14th July 1994 she was convicted at Marlborough Street Magistrates Court of handling stolen goods contrary to Section 22(1) of the Theft Act 1968 and was fined £150;

(xii) she acted in a way which was fraudulent, deceitful or otherwise contrary to her position as a solicitor in that she provided a misleading representation and/or failed to disclose material information to the Law Society on her application for admission as a solicitor dated 3rd October 2002.
(for the avoidance of doubt this was an allegation of dishonesty)

By a second supplemental statement of Jonathan Richard Goodwin dated 14th March 2007 it was further alleged against the First Respondent that she had been guilty of conduct unbefitting a solicitor in that:-

(xiii) she transferred clients' files to other solicitors without the authority of the clients;

(xiv) she failed to disclose material information to lender client(s) and/or their solicitors.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 17th April 2007 when Jonathan Richard Goodwin appeared as the

Applicant, the First Respondent did not appear and was not represented and the Second Respondent was represented by Miss Buchan of Counsel.

The evidence before the Tribunal included the admissions of the First Respondent to allegations (i), (ii), (v) and (vii), the admission being on the basis that she was not guilty of conduct unbefitting a solicitor. The Second Respondent admitted allegations (i), (ii), (v), (vi) and (vii), such admission being on the basis that he was not guilty of conduct unbefitting a solicitor.

At the commencement of the hearing the Applicant gave the Tribunal details of due service of the proceedings on the First Respondent and the Tribunal gave consent for the substantive hearing to proceed in her absence.

At the conclusion of the hearing the Tribunal made the following Orders:-
The Tribunal Orders that the Respondent Joyce Fortunate Benson of George Street, London, W1H, solicitor, be struck off the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £23,100.

The Tribunal Orders that the Respondent Edward Abayomi Chukwuemeka Keazor of Weir Hall Avenue, London, N18, 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 £9,900.

**The facts are set out in paragraphs 1 to 47 hereunder:-**

1. The First Respondent, born in 1964, was admitted as a solicitor in 2004 and her name remained on the Roll of Solicitors. The Second Respondent, born in 1967, was admitted as a solicitor in 2002 and his name remained on the Roll of Solicitors.

2. At all material times the Respondents carried on in partnership under the style of Bensons Solicitors from offices at 25 Harcourt Street, London, W1H 4HN. The firm commenced in August 2004.

3. By letter dated 21st March 2006 the Second Respondent wrote to the Law Society indicating that the firm was to cease trading with immediate effect. On 30th March 2006 an Adjudication Panel resolved to intervene into the Respondents' practice.

   <u>Accounts Rules breaches</u>

4. Upon due notice to the Respondents the Investigation Officer of the Law Society carried out an inspection of the Respondents' books of account and produced a Report dated 29th March 2006. A Supplemental Memorandum dated 30th March 2006 was also produced.

5. The books of account were not in compliance with the Solicitors Accounts Rules. The Second Respondent stated on 14th March 2006 that there were no client account debit balances but the Investigation Officer ascertained a cash shortage in the sum of £1,756,909.03 as at 28th February 2006, which was not rectified, save for a payment of £171,022.79 on 10th March 2006 in respect of the matter of Miss MC (paragraph 23 below).

6. The list of liabilities to clients produced for inspection as at 28th February 2006 contained 95 debit balances varying in amount between £0.03 and £440,370.68 and totalling £1,756,909.03. In interview the Respondents were asked when they had first become aware of the debit balances and they confirmed that it would have been the latter part of 2005 when they employed a consultant accountant Mr K to deal with errors that had arisen in their books. The Second Respondent added that he believed that the debit balances had arisen as a result of bookkeeping errors and mispostings and that he believed that the debit balances were capable of being offset against credit balances. The First Respondent added that she had been informed that the books reconciled and she took that to mean that there were no problems with them.

7. The Investigation Officer investigated the 11 largest debit balances all of which were over £20,000 and totalling £1,593,794.23.

8. The Investigation Officer exemplified five of the largest debit balances within the Report, details of which are set out below.

Suspense account 8000 - transfers to identify - £440,370.68

9. It was ascertained that in the period 27th September 2004 to 16th January 2006, 327 debit postings in respect of transfers made by the firm from client to office bank account, which were not allocated to any particular client, varying in amount between £0.01 and £30,000 and totalling £490,658.25 were made in to this account.

10. In the period 27th September 2004 to 21st October 2005, 14 credit postings said to be by way of correction or allocation of certain of the transfers, varying in amount between £76 and £18,770.08 and totalling £50,287.57 were also made.

11. The net debit balance and client account shortage of £440,370.68 represented net unallocated transfers from client to office bank account.

12. The Investigation Officer was able to ascertain from a review of the client and office bank account statements, by way of sample only, that 126 transfers totalling £78,416.03 made in the period 6th June 2005 to 16th January 2006 and remaining unallocated as at 28th February 2006, had physically been made at the bank and were not accounting errors.

13. The Respondents agreed that the ledger showed unallocated transfers from client to office bank account, albeit they stated that they were of the view the transfers were capable of being allocated to relevant clients.

Suspense account 7000 - monies to identify - £189,668.76

14. It was ascertained that in the period 7th September 2004 to 6th February 2006, 50 debit postings varying in amount between £8 and £100,000 and totalling £403,453.47 had been made into this account. In the same period 43 credit postings varying in amount between £8 and £68,848 and totalling £214,219.96 were also made.

15. The resultant net debit balance and client account shortage of £189,233.51 represented payments made by the firm that they were not able to allocate to any particular client.

Mr and Mrs O - £207,535.60

16. The First Respondent acted for these particular clients in relation to a purchase. The firm also acted for the lender, the Birmingham Midshires, in respect of the mortgage advance.

17. On 14th October 2005 the sum of £206,951 was received by way of mortgage advance. The ledger purported to show that the sum of £206,951 was returned to the Birmingham Midshires on the same day (14th October 2005). Neither the receipt nor the payment of the sum of £206,951 could be attributed to mispostings because the Investigation Officer had agreed both to the client account bank statements. However, notwithstanding that the firm appeared not to be in possession of the mortgage advance, the First Respondent completed the purchase, registering the property on 18th November 2005.

18. In order to complete the purchase the records showed that a total of £230,000 was paid to Kingsford Solicitors (£11,500 and £218,500 paid on 25th October and 7th November 2005 respectively), creating a debit balance of £203,005 as at 7th November 2005. The debit balance was increased to £207,535.60 as at 15th November 2005 by the payment of the firm's costs in the sum of £1,125.90, Stamp Duty of £2,300, Land Registry fees of £220 and £884.70 to the client.

19. The First Respondent indicated she had spoken to the lender who had confirmed they had not received repayment of the mortgage advance, and that she had asked for the paid cheque to establish who had received the funds.

20. Subsequent enquiries by the Law Society revealed that the cheque in the sum of £206,951 (cheque number 000040) referred to in paragraph 24 of the Report, paid out on 14th October 2005, showed the payee as Walm Lane Properties Limited and not Birmingham Midshires as stated in the firm's accounting records. This information was set out in the Supplementary Memorandum dated 30th March 2006.

21. A company search was carried out in relation to that particular company and it was ascertained that the sole director of Walm Lane Properties Limited was the First Respondent, with the company secretary being the Second Respondent.

Miss TM

22. The First Respondent acted for Miss M in relation to her purchase.

23. The relevant ledger identified two payments of £171,058.04 being made to KSL Solicitors, who were acting for the seller on 24th February 2006 and 28th February 2006. The second payment on 28th February created a debit balance on the client ledger in the sum of £169,348.58. The First Respondent indicated that the second payment was made in error and that when same was identified they requested a refund from the seller's solicitors. The sum of £171,022.79 was returned by KSL on 10th March 2006 being the sum overpaid less £35.25 telegraphic transfer charge.

Mr DG - £93,890.60

24. The First Respondent acted for Mr G in relation to his purchase.

25. The ledger produced to the Investigation Officer showed a debit balance of £92,890.60 as at 28th February 2006 notwithstanding the list of balances produced for inspection showed the debit balance in respect of this particular client as at February 2006 to be in the sum of £93,890.60 with there being an unexplained difference of £1,000.

26. The ledger revealed that, save for the period from 19th July to 24th July 2005, there had been a continuous debit balance in relation to this transaction since it commenced on 4th May 2005. The First Respondent sought to explain that the postings were wrong and that money had been transferred from other ledgers to this one to fund the initial deposit of £46,250 on 21st June 2005. There was no evidence of that from any of the ledgers produced for inspection and the First Respondent accepted that the transfers were not reflected on the ledgers.

Breach of Rule 34

27. The Respondents were asked to produce certain matter files in relation to the eight named clients whose matters were identified within the 11 largest debit balances (paragraph 7 above). The firm was only able to produce three of the named files, being unable to produce the remaining five. The First Respondent indicated that notwithstanding the same had been searched for they could not be located either in the office or in the firm's external storage facility.

28. Mr Cotter, the Investigation Manager, contacted the Second Respondent by telephone to request that the Second Respondent provide him with a signed authority so that he could contact the firm's bankers direct to verify the payees in respect of payments made by the firm from their client account. Mr Cotter thought that the telephone call had been made on 27th March 2006. The Second Respondent believed that the telephone call had been made on 28th March 2006. The Second Respondent agreed to fax authorities to Mr Cotter but as at 7 pm on 28th March 2006 they had not been received. Mr Cotter therefore wrote by fax letter dated 28th March 2006 enclosing authorities for signature and return. Mr Cotter telephoned the firm again on 29th March 2006 to confirm receipt of the fax and was informed by the receptionist that the Second Respondent was not in the office as he had been taken ill. The First Respondent was also not in the office. The authorities were faxed to Mr Cotter at 7.10 pm on 29th March.

Allegations (ix) to (xii)

29. It had been ascertained from enquiry of the Police that the name Joyce Fortunate Benson with the date of birth of 19th July 1994 revealed that the subject was known on the Police national computer as Fortunate Mneka Chigbo. The Police indicated that the Respondent subsequently gave Police the following aliases listed as follows:-

- Joyce Fortunate Benson
- Joyce Benson
- Fortunate Mneka Mogobo-Wachuku
- Obauju Veronica Olaleye

30. A Memorandum of Conviction dated 26th July 1982 in the name of Fortunate M Chigbo relating to an offence pursuant to Section 3(1) of the Misuse of Drugs Act 1971 and/or contrary to Section 170(2) of the Customs and Excise Management Act 1979 was before the Tribunal.

31. A Memorandum of Conviction in the name of Joyce Benson relating to convictions on 14th July 1992 relating to offences of dishonesty committed on 27th June 1992 in relation to attempting to obtain property by deception contrary to Section 1(1) of the Criminal Attempts Act 1981 and handling stolen goods contrary to Section 22(1) of the Theft Act 1968 was before the Tribunal.

32. The First Respondent completed an application for admission as a solicitor and for a Practising Certificate form dated 3rd October 2002. Section 2(3) titled "Character and suitability for admission" confirmed at the note thereto that "convictions which are "spent" under the Rehabilitation of Offenders Act 1974 should be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975)".

33. Question 1 to the Section read "Have you been convicted of any offence in any court of the UK, or elsewhere (other than a motoring offence not resulting in disqualification) which you have previously not disclosed to the Society?". The First Respondent answered no.

34. Section 6 titled "Declaration" read "I declare that the facts set out by me in support of this application are true. I also understand that I must bring to the Law Society's attention any other matter which questions my fitness to become a solicitor". The First Respondent signed the document declaring the contents to be true.

35. By letter dated 4th December 2006 the Law Society wrote to the First Respondent seeking her explanation. The First Respondent failed to reply or provide explanation.

Allegations (xiii) and (xiv)

36. A supplementary Forensic Investigation Report dated 18th January 2007 was before the Tribunal. The Report noted the matters set out below.

37. Following the intervention into the firm of Bensons Solicitors ("Bensons") on 31st March 2006 the intervention agents uplifted all client files. It was ascertained that the First Respondent had transferred a large number of files to other solicitors (Kellies Solicitors) and that 135 of those files had been transferred without the clients' authority to do so. Notice under Section 44b of the Solicitors Act 1974 was served in respect of the 135 files and they were subsequently uplifted by the intervention agent.

38. It was ascertained from a review of the files uplifted at the intervention and subsequently that the First Respondent had failed to notify lenders of material information relating to the true purchase price on conveyancing transactions.

39. The Council for Mortgage Lenders Handbook stated at Section 6.3 "The purchase price for the property must be the same as set out in our instructions. If it is not, you must tell us. You must tell us if the contract provides for a cashback to the buyer". A number of matters were exemplified in the Report in which the First Respondent had failed to notify the lenders of such information.

40. In the matter of Mr O the sale price of the property was reduced from £290,000 to £225,000 resulting in the lender advancing 110% of the true purchase price.

41. In the matter of Mr and Mrs B a discount of £38,219.70 was offered by the developers to the purchasers. The vendor's solicitors asked the First Respondent to confirm whether they had made the mortgagees aware of the discount. There was no evidence on the file that the mortgagees were made aware of the discount. The price paid for the property was £588,479.44 which was £48,515.56 less than had been declared to the lender.

42. In the matter of Mr S the lender client was not advised of the cashback of £32,305 offered by the vendor to the purchaser. Further, the price paid for the property was £215,860.98, not the price stated in the certificate of title signed by the First Respondent of £248,500. As a result the lender advanced 109% of the true purchase price.

43. In the matter of Ms B there was no evidence to suggest that the lender was informed of the allowance of £24,500 offered by the vendor to the purchaser. The First Respondent signed the certificate of title confirming that the price stated in the transfer was £245,000. Because of the allowance the true purchase price was £220,500. As a result the lender advanced 100% of the purchase price.

44. In the matter of Mr W there was no evidence that an allowance of £40,000 from the vendor to the purchaser was reported to the lender. The lender was not advised that the true price of the property was £204,752 and not the £245,000 on the certificate of title signed by the First Respondent. As a result the lender advanced 103% of the true purchase price.

45. In the matter of Mr C the First Respondent signed a form on 13th March 2006 at the request of the lender stating that the purchase price was £209,995 and confirming that there would be no cashbacks or discounts. A 17% discount was made on the stated purchase price which resulted in the lender advancing 108% of the purchase price. After the payment of various disbursements a balance of £9,410.37 remained in the firm's client account.

46. In the matter of Ms E a letter dated 20th December 2005 from the vendor's solicitors informed the First Respondent that there would be a £60,000 allowance on the stated purchase price of £340,000. On 17th February 2006 the First Respondent signed a certificate of title recording the purchase price as £340,000. There was no evidence to indicate the lender was informed of the discount.

47. In the matter of Mr GS the First Respondent completed a form at the request of the lender stating that the purchase price was £228,000 and confirming that there would be no cashbacks or discounts. There was a 20% discount on completion and there

was no evidence to indicate that the lender was informed of the discount. As a result the lender advanced 112% of the purchase price.

**The Submissions of the Applicant**

48. The First Respondent had admitted allegations (i), (ii), (v) and (vii) on the basis that they did not amount to misconduct. In her letter to the Applicant dated 26th March 2007 she had indicated that she had no recollection of receiving the supplemental Rule 4 statement but in the same letter she had dealt with it. She had denied the allegations in relation to both the supplemental and second supplemental statements but did not require the Applicant to prove any of the facts. She required him to prove that the alleged facts amounted to conduct unbefitting a solicitor.

49. In relation to the Second Respondent the Applicant had thought that a significant number of the allegations were denied but the Second Respondent's Counsel had indicated that all the allegations were admitted save allegations (iii), (iv) and (viii) but on the basis that they did not amount to conduct unbefitting a solicitor.

50. Allegation (iv) arose from the fact of transfers from client to office account which meant that the partners had use of the money. Allegation (iv) was not put on the basis that the money was being dealt with in any other way.

51. The firm had commenced in August 2004 and the Tribunal was asked to note that round sum transfers commenced in September 2004, a matter of weeks after the commencement of the practice.

Conduct unbefitting a solicitor

52. It was established by authority (Ridehalgh -v- Horsefield [1994] 3 All ER 648) that conduct unbefitting a solicitor was:-

> "Conduct which would be regarded as improper according to the consensus of professional, including judicial, opinion could be fairly stigmatised as such whether it violated the letter of a professional code or not."

53. It had been said that conduct unbefitting a solicitor was conduct which would reasonably be regarded as disgraceful or dishonourable by other solicitors or which was inexcusable and such as to be regarded as deplorable by other solicitors or such as to render the solicitor unfit to remain a member of the profession.

54. In the submission of the Applicant the Accounts Rules breaches and other allegations amounted to such misconduct. The First Respondent's application to become a solicitor without disclosing her convictions was a clear example of conduct unbefitting a solicitor.

Dishonesty

55. The Applicant would rely on the combined test set out in the case of Twinsectra -v- Yardley and others [2002] UKHL 12 in which it was stated:-

> "Thirdly, there is a standard which combines an objective test and a subjective test, and which requires that before there can be a finding of dishonesty it must be established that the defendant'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. I will term this "the combined test"
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> …
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> "Dishonesty requires knowledge by the defendant that what he was doing would be regarded as dishonest by honest people, although he should not escape a finding of dishonesty because he sets his own standards of honesty and does regard as dishonest what he knows would offend the normally accepted standards of honest conduct."

56. It had been accepted on behalf of the Second Respondent that the combined test set out in Twinsectra was the appropriate test.

57. The Applicant alleged dishonesty against both Respondents on the basis of the round sum transfers and the cheque payable to Walm Lane Properties Limited.

58. Even if the Tribunal was not satisfied so as to be sure that dishonesty was made out the breaches of the Accounts Rules remained very serious. Insofar as the Second Respondent sought to distance himself from those breaches he could not do so. Even absent dishonesty he had been guilty of a serious dereliction of duty.

59. The Tribunal was referred to the case of Weston CA 15th July 1998 in which it was said:-

> "They [the Tribunal] were at pains to make the point, which is in my judgement a good point, that the Accounts Rules exist to afford the public maximum protection against the improper and unauthorised use of their money and that, because of the importance attached to affording this protection and assuring the public that such protection is afforded an onerous obligation is placed on solicitors to ensure that the Accounts Rules are observed. This is a duty which binds solicitors, quite apart from a duty to act honestly and in accordance with the duties of a trustee.
>
> Recognition of that principle does not mean that, in any case where one solicitor is dishonest and as a result both he and a partner commit breaches of the Accounts Rules, both must automatically be struck off even if the second partner is guilty of no dishonesty. That would be to lay down much too inflexible a principle. The striking off of any solicitor found to have acted dishonestly in relation to clients' monies must now be seen as all but automatic. The position of a partner guilty of non-compliance with the Accounts Rules but without dishonesty will depend on all the circumstances of the case."

60. In the case of Bolton -v- The Law Society 1994 1 WLR 512 it was said:-

> "If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending re-investment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness is not, and never has been, seriously in question. Otherwise, the whole profession, and the public as a whole, is injured. A profession's most valuable asset is its collective reputation and the confidence which that inspires."

61. The Second Respondent was seeking to absolve himself from blame on the basis that the accounts had been delegated to the First Respondent. Culpability however was different from liability. Such an argument was relevant to mitigation not defence. The Solicitors Accounts Rules apply to all solicitors, and all principals in a firm had a responsibility to ensure compliance.

62. The breaches of the Accounts Rules were conduct unbefitting a solicitor for the reasons set out in the case of Weston (paragraph 59 above), because of the need to protect the public and to ensure the integrity of the accounts.

63. In the absence of the First Respondent the Tribunal was invited to read all correspondence from the First Respondent and her affidavit and exhibits.

64. The Tribunal was referred to the case of Bultitude -v- The Law Society [2004] EWCA Civ 1853 in which it was said:-

> "I accept of course that he is not shown to have intended permanently to deprive his clients of their funds. The proof of dishonesty in this context is not dependent upon proving that intention.
>
> …
>
> So as Mr Goodwin submitted in the Divisional Court, Mr Bultitude signed a cheque for £50,000 transferring his clients' funds to his office account without any supporting documentation and thus, it must be inferred, without knowing or caring whether his firm was entitled to be paid those funds. That, to my mind, satisfies both legs of the Twinsectra test, and the position is compounded by what happened thereafter."

Relying on the case of Bultitude the Applicant did not need to establish an intention permanently to deprive. The misconduct lay in the taking of client funds where a solicitor knew or did not care that he was not entitled to the funds.

65. Mr Cotter was the Senior Investigator present at the inspection and conducted a large part of the interview with the Respondents.

66. The Tribunal was asked to note that the Report indicated that both Respondents were signatories to the client bank accounts.

67. The suspense account 8000 (paragraphs 9-13 above) formed part of the allegation of dishonesty. It was submitted that such conduct amounted to conscious impropriety. The Respondents effected transfers from client to office account not knowing or caring whether they were entitled to those monies. A reasonable and prudent solicitor would have satisfied himself by enquiry that he was entitled to transfer the monies before doing so. There had effectively been round sum transfers. Earlier transfers could not be verified as bank statements were not available to the Investigating Officers.

68. In relation to suspense account 7000 a reasonable, prudent and honest solicitor would have satisfied himself by enquiry that he was entitled to transfer the funds.

69. The matter of Mr and Mrs O also formed part of the allegation of dishonesty. The cheque made out to Walm Lane Properties Limited had been signed by the First Respondent so, contrary to her assertion, she would have known to whom it was paid. The company was under the control of both Respondents. The First Respondent had taken a conscious decision to act dishonestly.

70. The Second Respondent had explained that his involvement in the company was limited. He had not signed the cheque. The Tribunal might have doubts as to his involvement but the Tribunal was asked to note that he was the company secretary.

71. The matter of Miss M did not form part of the allegation of dishonesty. The First Respondent had said that the second payment was an error and was returned. This was accepted but the error was so large that it amounted to a serious breach of the Accounts Rules.

72. It was submitted that the failure to produce certain matter files was in itself sufficient for allegation (viii) to be substantiated and the Tribunal was referred to Rule 34. The Applicant also submitted however that the failure or delay in the provision of the authorities was sufficient to amount to a breach of the Rules, although the Applicant acknowledged that this was not the most serious of the allegations against the Respondents. The Second Respondent contested this allegation, saying that he had done all that he could.

73. The Tribunal was referred to the report of A Louis & Co Accountants, who had prepared an interim report dated 16th July 2006 on forensic accounting work regarding client account shortages. This had been enclosed in a letter from the First Respondent to the Law Society dated 18th July 2006 . The Tribunal was asked to note that the report stated:-

> "It is not part of this assignment to identify breaches of the Solicitors Accounts Rules 1998."

The Report concluded:-

> "The total cash shortage as at 28th February 2006 is £1,756,909.03. £169,348.58 of this was rectified on 10th March 2006, leaving a final total of £1,587,560.45. We have so far identified correcting entries totalling £750,426.06. The revised deficit is therefore £837,134.39."

The author of the report had not been called for evidence so the report was not capable of being challenged. Further, the conclusion in the report was not that relevant as the Law Society had identified a particular snapshot of the situation as at 28th February 2006. The shortage might well have changed later for a number of reasons. Whether the final figure was larger or smaller, the figures were large.

74. The Second Respondent had been aware of debit balances of significant amounts but had taken no action. There had been unauthorised transfers. Even a brief review of the accounting materials would have shown the problem. Dishonesty was alleged against the Second Respondent as a partner in the practice. It was wrong for him to defend himself by saying he had turned away.

75. In relation to allegations (ix) to (xii) the First Respondent had accepted the facts but required the Applicant to prove conduct unbefitting a solicitor. The Tribunal was asked to note however the list of aliases and the fact that the First Respondent had not said that she was not the person who was the subject of the convictions. The Tribunal could therefore assume that she was that person.

76. The Tribunal was asked to note the wording of the application form to the Law Society which made clear that all convictions including those which were spent under the Rehabilitation of Offenders Act had to be disclosed. Asked if she had been convicted of any offence, the First Respondent had ticked "no". This was inaccurate, misleading and untrue. The public would conclude that the First Respondent had been dishonest and that she had known at the time that she was being dishonest. The Respondent had signed the form indicating that all the facts set out were true.

77. In relation to allegations (xiii) and (xiv) the First Respondent required the Applicant to satisfy the Tribunal that the facts constituted conduct unbefitting a solicitor.

78. In relation to allegation (xiii) the files should only have been transferred with the clients' knowledge and consent and the First Respondent's misconduct was conduct unbefitting a solicitor.

79. In relation to allegation (xiv) the matter of Mr O (paragraph 40 above) was entirely reflective of all the other matters in the Report. These were matters which a lender would be interested to know and which were properly classed as material information. The First Respondent was required to act in the best interests of the lender client(s) to include disclosing material information to them. Her failure to do so was conduct unbefitting a solicitor.

**The oral evidence of Mr Cotter**

80. Mr Cotter gave details of his role in the investigation and confirmed that the contents of the Forensic Investigation Report dated 29th March 2006 were true. He also confirmed the truth of the Memorandum of 30th March 2006 which he had prepared having obtained a copy of the cheque and instructed a search of Walm Lane Properties Limited. Mr Cotter also had knowledge of the supplementary Report dated 18th January 2007. He had instructed Mrs H to carry out that investigation. He confirmed that the interview notes were an accurate transcript of the digital recording of the interviews.

81. The investigation had shown that the books of account were not in compliance with the Solicitors Accounts Rules. There was a significant shortage in excess of £1.7million. The cause of the shortage was firstly unallocated payments from client to office account said to be for costs but not allocated to any ledger, secondly similar unallocated payments to third parties, and thirdly debit balances. A suspense account had been set up by the bookkeeper who could not allocate the transfers.

82. Where possible from the bank statements provided, which did not cover the whole period, it had been established in the inspection that the transfers had actually passed. The largest component of the transfers were round sum payments.

83. The Second Respondent had answered most of the questions. He had said that there were no debit balances which was not correct. He said that he was aware of the reconciliations and believed that the debit balances could be set off against credit balances. He appeared to have knowledge of the accounts but the running of the accounts was done by the First Respondent. Both Respondents said they relied on their bookkeeper and accountants.

84. Mr Cotter was taken in detail in evidence through parts of the transcript of the interview with the Respondents. Both Respondents indicated their belief that there were book errors but that the transfers were capable of being balanced.

85. The file for Mr and Mrs O had been selected for inspection because of the large debit balance. It looked as though there had been an overpayment to the vendor's solicitors which was repaid. The mortgage money appeared to have been returned on the same day as it had been received and Mr Cotter had sought to determine what had actually happened. The First Respondent said that she had spoken to the mortgagee, who said that they had not received the repayment, and she said that she would obtain information. Having not received that information Mr Cotter had obtained the copy cheque subsequent to the interview and had found that it was payable to Walm Lane Properties Limited, a company owned by the First Respondent and of which the Second Respondent was the company secretary.

86. Mr Cotter found it difficult to believe the explanation provided by the First Respondent in correspondence exhibited to her affidavit, namely:-

> "The conveyancing transaction for Mr and Mrs O was handled by a non-admitted staff of Bensons Solicitors called Mr A. He was under my supervision. At about the same time of the O transaction, Mr A handled the conveyancing work for Walm Lane Properties Limited in its sale of 43-45 Coldharbour Lane, London SE5 and its remortgage of Flat 1, 57 Montague Square, London W1. The NatWest cheque dated 14th October 2005 for £206,951 that was made payable to Walm Lane Properties Limited represented part of the proceeds of sale of 43-45 Coldharbour Lane and the remortgage of Flat 1, 57 Montague Square. The monies had been paid by the purchaser and the vendor to Bensons Solicitors for the benefit of Walm Lane Properties Limited. Bensons Solicitors then paid the sum of £206,951 from those monies from its client account to Walm Lane Properties Limited. Mr A then erroneously recorded the said sum of £206,951 in the O ledger as a sum of money that was returned to Birmingham Midshires. This is clearly an error.

> The mortgage that was advanced by Birmingham Midshires was what was used to complete the purchase for Mr and Mrs O."

The bookkeeper had filled in the cash book and ledgers from slips given to him. The bookkeeper would not have recorded the name of the mortgagee of his own accord. It was hard to believe that it was exactly the same amount as that of the other sale. Although the First Respondent had said she would contact the bank, at the time of the interview she would have known that she had signed the cheque to Walm Lane Properties Ltd.

87. The Investigation Officers had selected for inspection all the files with debit balances in excess of £20,000. They had seen three of the files but the other five had never been produced. One of the files seen by Mr Cotter subsequently disappeared and was not produced later.

88. The supplementary Report showed a common theme in that the First Respondent failed to notify lenders of the true purchase price, which was always less than the price stated to the lender on the certificate of title.

89. In relation to the authorities for the bank, these had been received, signed by the Second Respondent, on 29th March. They should have been provided immediately and Mr Cotter had made a number of requests. When received, everything had been in order with the authorities. At the time of writing the Memorandum Mr Cotter had believed that he had made the request on 27th March and did not think he had made a mistake, but accepted from the wording of his letter of 28th March 2006 that it was not clear whether he had spoken to the Second Respondent on 27th or 28th March.

90. Mr Cotter confirmed that the problem files were predominantly the First Respondent's conveyancing files. The Second Respondent had on occasion signed reports on title in the absence of the First Respondent but had had no other involvement in the files.

91. Mr Cotter confirmed that the Second Respondent, although the secretary of Walm Lane Properties Ltd, was not a shareholder or director of that company.

92. The Second Respondent had provided Mr Cotter with the reconciliations.

93. Mr Cotter had not been aware that the Second Respondent had approached the Law Society in October 2005 to report a cash shortage of £1,000.

94. The £400,000 of clients' money which went into office account was actually spent in dribs and drabs over some two years for the benefit of both partners to run the office.

95. Mr Cotter's understanding from conversations and the fact that the Second Respondent had produced the reconciliations had been that he had been aware of the reconciliations. Mr Cotter considered that in a two partner practice it was inconceivable that the Second Respondent would not have been aware of the large debit balances. Mr Cotter agreed that the First Respondent had written in a letter dated 19th June 2006 "The deficit of £837,134.39 was caused by using clients' monies to complete other clients' transactions" and that she had not implicated the Second Respondent.

96. Asked whether the Second Respondent had been a victim of deception by the First Respondent and had been negligent rather than dishonest, Mr Cotter said that the Second Respondent must have known because the debit balances were on the face of every reconciliation produced monthly for two years. It was part of the Second Respondent's responsibility to deal with the accounts and not give them over entirely to one person. He had benefited from the situation where the office account was funded by large numbers of unallocated transfers. There were some transfers made which were not allocated in relation to the Second Respondent's own matters. The Second Respondent should have become aware of the situation unless he had not seen the reconciliations for two years. If he had not seen the reconciliations for two years then he was either avoiding something or knew something which he did not wish to be appraised of.

97. It was correct that the Second Respondent had closed down the firm of his own volition on 21st March. A lot of the First Respondent's conveyancing files had been transferred to another firm without the clients' agreement. Mr Cotter accepted that the Second Respondent was a litigator.

**Oral evidence of the Second Respondent**

98. The Second Respondent confirmed the truth of his affidavit subject to one correction relating to the name of the firm's accountants.

99. The Second Respondent said that he had not participated in the transfer of funds otherwise than in accordance with the Rules, at least at a personal level. It was clear that there had been breaches but the Second Respondent had not utilised or misappropriated funds. He had not seen the reconciliation statement shown to the Investigation Officers until 14th March 2006.

100. The Second Respondent had regularly met with the First Respondent who was responsible for the front line accounts supervision in order to reconcile the accounts. He had regularly been shown paperwork which showed that the accounts were in balance. The firm had changed software in mid 2005 and the Second Respondent had been told that there would be a time lag on inputting on the new software and that there would therefore appear to be a time lag in postings. He was also told that there had been some errors in the postings but no breaches of the Rules, and that there was no cash deficit. The Second Respondent had been satisfied because he had been shown paperwork signifying a balance.

101. At the time of the interview the Second Respondent had truthfully said that he was satisfied that the accounts were in order only to be told when he asked the bookkeeper for the reconciliations for the Investigation Officers that all was not in order and that there was a serious problem of error in posting which had caused a deficit in the accounts. The Second Respondent had had to hand over to the Investigation Officers reconciliations and explain that there appeared to be problems just after having told them that there were no problems.

102. The Second Respondent went through the five matters he had identified in his affidavit which were his files and where there were some discrepancies. The Second Respondent had been certain that he had had funds in the relevant accounts when

making the transfers. He was certain in relation to the matter of M that the First Respondent had made a transfer. He knew that the client had asked for a loan of £10,000 which the Second Respondent had refused. The First Respondent had said she would make a loan from her own money but it now appeared that she had made it from client account.

103. Although Mr Cotter had suggested that the Second Respondent should have gone behind the printout and looked at the ledgers there had been many matters. The Second Respondent had been shown some and they had balanced. He accepted that he should have done more but he had gone through the reconciliations with the First Respondent. The firm had had chartered accountants as the Second Respondent had wanted an independent view. The accounts filed with the Law Society had shown a deficit of £908, not £1.7million.

104. The Second Respondent explained how he had met the First Respondent in another practice. They were originally from the same tribe and she had been supportive when he went through marital difficulties. At the time the First Respondent was engaged in property development and the Second Respondent had advised her to register a company. As she had not known how to do it the Second Respondent had done it for her, which was why he became the company secretary for Walm Lane Properties Limited. The First Respondent had never paid the Second Respondent for this. His address as shown on the search made by Mr Cotter was years out of date.

105. The first time the Second Respondent knew that Walm Lane Properties had benefited was from the Intervention Officers. The Second Respondent had asked the First Respondent for an explanation and she had said it was an error.

106. With his own matters the Second Respondent had sought to comply with the Rules. His fee income had not been that high. The fees of the practice were shared on the basis of the files each partner worked on.

107. The Second Respondent was certain that the bank mandates had been requested from him by Mr Cotter on 28th March. He had been unclear initially what was wanted. At the time he had been suffering from high blood pressure and was clinically depressed. He had not slept for three or four nights and decided to deal with the matter the following day. By that time Mr Cotter had sent a form. The bank accounts were at that stage frozen in any event. The Second Respondent had returned the completed forms on 29th March.

108. Before the Second Respondent had raised the problem of the discrepancy with the Law Society in October 2005 he had not thought anything was wrong with the accounts and he certainly had not known about the problems which had been discovered since. He had thought there might be clerical errors but he had seen the reconciliation statement 20 minutes before he had given it to Mr Cotter. The First Respondent had not wanted him to hand it to the Investigation Officers.

109. The Second Respondent confirmed that the reporting to the Law Society in October 2005 had been done by the reporting accountants but said that he had called the Law Society to discuss it with them.

110. The Second Respondent confirmed that when the Respondents had started their practice together the First Respondent had only been qualified for six months. He had considered the aspect of supervision of her work as he was not a conveyancer and had told her she must keep her level of work down until he could get someone in to supervise her. He accepted that he ought to have been supervising her. She had however worked for several years as a conveyancer with her own caseload before qualifying, indeed had more experience of running a UK practice than the Second Respondent.

111. The Second Respondent had always been closely guided by the accountants, one of whom attended every week. He accepted that he could not delegate his responsibility to the accountant but he had effectively delegated it to a partner. At that time and still the Second Respondent thought that the First Respondent had a good knowledge of the accounting rules.

112. Up to the intervention the Second Respondent had still believed the First Respondent. After the report of Louis & Co it was clear that she had not been telling the truth. The Second Respondent's only contact with her since had been to ensure that all monies were paid. He was very disappointed.

113. The day the Respondent had received the conclusions of the intervention officers he had written a letter closing the firm. He did not feel he could leave the firm open for the public to bring money in. At that time it was not conclusive that the Law Society would intervene. His own documents and files were intact but he did not feel he could leave the firm open after he knew the position.

114. He had behaved responsibly by going through documents with the First Respondent but had been shown different documents. He had allowed her to continue her role of ensuring compliance with the Accounts Rules, one reason being that he was in court a lot of the time.

115. The Second Respondent had believed that he had complied with Rule 6 but he accepted that there were breaches. Counsel had advised him that he was jointly and severally liable for the breaches whether or not he had caused them. His efforts to comply with the Accounts Rules had come to naught. He reiterated that he had not known of the problems apart from that raised in the 2005 Accountant's Report. He agreed that the shortage on client account had started only weeks after the firm commencing. He considered that the First Respondent's actions had been deliberate and that she had intended to use him.

116. The Second Respondent had drawn less than £3,000 per month from the firm. The Second Respondent had been doing £30-40,000 worth of work per month and had drawn £10-20,000 per month.

117. The Second Respondent accepted that he had been the supervising partner and more senior. The First Respondent had had five or six people working for her whom she supervised. Sometimes the Second Respondent had signed forms passed by her staff and he would ask a few questions and glance through the files to check that money laundering was being complied with and searches being done. He would sign certificates on title if he had done those checks.

118. Because of the disparity in the partners' income the First Respondent bore the greater part of the overheads. She owned the office building as Walm Lane Properties Ltd and was paid £5,000 per month for that.

119. The practice tax had been done by Mr O who was the accountant for Walm Lane Properties. The Second Respondent's personal tax had been done by someone else.

120. As far as the Second Respondent was concerned he had been told that with the changeover in software it would seem as if there were debit balances because of the time lag. At the time of the interviews that was the only reason he could think of for the £1.7million shortage. He had been shocked at the amount. By the end of the interview he had seen clearly that this was not just a matter of paper debits and irregularities in transactions. He had known that there was more to worry about and had decided to close the firm down. He had definitely not been aware of the suspense accounts. The First Respondent usually opened the post as she lived near the office. The Second Respondent had looked through the bank statements but had never seen statements for suspense accounts. The accountants had come in for two weeks and never saw them. If the Second Respondent had known of the suspense accounts the situation would not have reached the stage it had.

121. The ledgers would not have shown the enormity of the problem. The accounts shown to the Second Respondent appeared to be in order.

122. Having been aware of a problem in 2005 the Second Respondent had done all that he reasonably considered to be appropriate in the circumstances. The accounts were being brought up to date. He now wished he had done more but did not consider that he had been reckless. He had tried to do things properly but hindsight was a wonderful thing. Although at the time he had believed that the accounts balanced and that any differentials were due to problems caused by the software, he now knew that there had been an actual cash deficit.

123. He had spoken to the First Respondent who was still saying that everything would reconcile in the end. He had told her to sell some property and pay back the money.

124. At the time he had believed that delegating the accounts task to the First Respondent was reasonable and that he had not been negligent. He had taken an interest in the accounts but had not been shown the correct accounting documents.

125. The Second Respondent did not intend to be a partner again and no longer trusted anyone. He was unhappy that people's money had been treated in this way at a place he was working, and was very sorry. No such allegation had ever been made against him before. He was currently working as a salesman. If he was not struck off he would work only in employment.

126. The Second Respondent explained the various client accounts and office accounts held by the firm. He had only used the client account with Barclays but due to poor customer service had intended to transfer that account to Clydesdale.

**The submissions on behalf of the Second Respondent**

127. The Tribunal was referred to the combined test in the case of Twinsectra -v- Yardley and others [2002] UKHL 12. It was acknowledged on behalf of the Second Respondent that following the case of Weston even where a defendant had not been dishonest a breach of the Accounts Rules could warrant a striking off.

128. The Second Respondent's main issue was that of culpability. He was most distressed that he had been accused of dishonesty and had sought to rebut that.

129. In defence and in mitigation the Tribunal was referred to the Second Respondent's personal circumstances and the pro bono work that he had done. He had made a modest income and had taken on many cases where he had rounded down his fees.

130. The Second Respondent had appreciated the seriousness of the Accounts Rules and had closed the practice immediately to protect clients once the seriousness of the situation had been made clear to him.

131. He had relied on other professionals including the First Respondent. This was a small practice. He had not abdicated his responsibility but had had regular meetings with the First Respondent and had seen paperwork which did not show the true position. He had cooperated and had made appropriate admissions. He had attempted to explain the mostly minor discrepancies on his matters. The bulk of the problems had arisen through the First Respondent's matters and she had accepted that most of the financial loss to individual clients arose from the conveyancing matters.

132. This was not a case of the Second Respondent simply distancing himself to protect his back. He had nothing to gain, having unlike the First Respondent very few assets. The First Respondent had asked the Second Respondent not to show the reconciliation statement to the Law Society which he flatly refused to do. If he had had something to hide he would have "lost" the statement or engineered a computer crash. The Second Respondent had been very surprised at the problem and had not been at all obstructive in trying to get matters resolved. All the missing files were those of the First Respondent.

133. It was suggested that it was surprising that the Second Respondent had not picked up on the accounting errors during 2004 to 2006. It was submitted that matters were well-concealed from him and the discrepancies had been explained even by the accounting staff as errors on the computer.

134. The First Respondent's absence from the Tribunal hearing spoke volumes as to her culpability and lack of willingness to attend and clear her name.

135. In relation to Walm Lane Properties the Second Respondent had simply been company secretary, as often happened with small businesses. He had not benefited in any way.

136. In relation to allegation (iv) there had been uncertainty how to plead this allegation as it did not necessarily mean a direct benefit to the Second Respondent but could be a benefit to the office. The Applicant's argument that the fact that the money had been spent in dribs and drabs was enough to substantiate that the allegation was understood

but the Second Respondent had had no knowledge of this. It had been concealed by the First Respondent.

137. In relation to allegation (viii) the Second Respondent had produced the mandates. It was submitted that the request had been made on 28th March and there had been a delay only of about a day. The Second Respondent felt strongly that Mr Cotter was incorrect in this regard. Despite being ill and stressed he had turned the mandates around. The Tribunal was asked to find that he was not liable for that point.

138. It was hoped that the Tribunal would find that the Second Respondent was a passionate and dedicated lawyer and that he was honest. He had come here to clear his name. Regardless of what happened to him professionally he hoped that he could refute dishonesty.

**Submissions as to costs**

139. The Applicant said that he had sent a schedule of costs to the First Respondent indicating that if contact was not made he would invite the Tribunal to make an order. The schedule had not included the figure of £5,284 in respect of the second supplementary statement.

140. The Second Respondent had agreed a figure of £33,000 to be apportioned.

141. The Tribunal was asked to make an order in a fixed sum. A fixed assessment would lead to additional costs.

142. On behalf of the Second Respondent the Tribunal was asked to weight the costs against the First Respondent. Without her the Second Respondent would not be in this trouble. Her conduct was dishonest. An apportionment of 70:30 was proposed.

**The Findings of the Tribunal**

143. The First Respondent had admitted allegations (i), (ii), (v) and (vii) but said that they did not amount to conduct unbefitting. The Tribunal accepted the submission of the Applicant in this regard and was satisfied that in the context of this case those allegations did amount to conduct unbefitting a solicitor and were substantiated. The Tribunal also found from the evidence of the Investigation Officer that allegations (iii) (iv) (vi) and (viii) were substantiated against the First Respondent. The First Respondent had been responsible for the actual running of the accounts. There had been a very large shortage in client funds of some £1.7million in respect of a firm which had only been opened for some two years. Applying the combined test set out in the case of Twinsectra -v- Yardley the Tribunal was satisfied that the First Respondent's conduct had been dishonest. There were significant unexplained transfers and in addition the First Respondent had signed the cheque in the matter of Mr and Mrs O to her own company yet had indicated to the Investigation Officer that she did not know where the money had gone and would need to obtain information from the bank. The First Respondent's conduct was clearly dishonest. That dishonesty related to clients' money and was of the most serious kind.

144. In relation to the first and second supplemental statements, the First Respondent had accepted the facts but again had denied conduct unbefitting a solicitor. Although

there had been some indication that she might not have received the first supplemental statement, she had then proceeded to deal with it in correspondence. The Tribunal was satisfied that allegations (ix) to (xii) in the first supplemental statement were substantiated on the documentation. She had been found guilty of offences of dishonesty and had compounded that by dishonestly completing the application to the Law Society for admission as a solicitor.

145. The Tribunal was also satisfied from the evidence before it that allegations (xiii) and (xiv) against the First Respondent were substantiated, the latter by the many examples set out in the report dated 16th January 2007.

146. The First Respondent's misconduct had seriously damaged the reputation of the profession. The serious allegations substantiated against her meant that it was not right that she remain a member of the profession and the Tribunal would order her name to be struck off the Roll.

**The Second Respondent**

147. The Second Respondent had admitted all the allegations against him save for allegations (iii), (iv) and (viii), but on the basis that they did not amount to conduct unbefitting a solicitor. Again in the context of this case the Tribunal was satisfied that the admitted allegations did amount to conduct unbefitting a solicitor. These were no minor or technical Accounts Rules breaches and the Second Respondent as a partner, indeed as the senior partner, was liable with the First Respondent for the breaches. In relation to allegation (iv) the Tribunal accepted the submission of the Applicant and the evidence of Mr Cotter that the funds misappropriated by the First Respondent had been utilised for the benefit of the firm by being transferred into office account. It therefore followed that the Second Respondent had also benefited whether or not he knew about the misappropriation. Allegation (iv) was therefore substantiated against the Second Respondent.

148. Allegation (viii) was not substantiated against the Second Respondent. There was some doubt as to whether the delay in producing the mandates was one or two days in duration. The Second Respondent's evidence was that the delay was only of one day. Mr Cotter had indicated at least the possibility of the Second Respondent being right by reference to Mr Cotter's letter. In either event in the context of bank accounts which were frozen and therefore protected and the Second Respondent's ill-health the Tribunal did not consider that the Second Respondent had delayed in producing the signed authorities. He, unlike the First Respondent, had sought to cooperate and to produce the mandates as quickly as possible.

149. The most serious allegation against the Second Respondent was allegation (iii) which was an allegation of dishonesty. The Tribunal had considered carefully the combined test in the case of Twinsectra -v- Yardley. The Tribunal had looked in detail at all the written evidence including the notes of the interviews and had had the benefit of hearing the oral evidence of the Second Respondent. The Tribunal was not satisfied that the conduct of the Second Respondent had been dishonest. The Tribunal considered that he had indeed been misled as to the true situation in the accounts by the First Respondent.

150. Despite the fact that the Tribunal had not found dishonesty against the Second Respondent he had been guilty of a serious abdication of responsibility. He was the senior and supervising partner yet in under two years a massive shortage on client account of £1.7million had arisen. By joining in partnership with the First Respondent who had not been qualified long enough to practise alone, the Second Respondent had given her credibility. He had known that there were problems and had been happy to accept that these were only "paper" debits without making the proper and detailed investigations he should have made. He had been reckless with regard to his stewardship of clients' money. The Tribunal considered the case of Weston -v- the Law Society. In the light of the very serious situation created by the First Respondent but which the Second Respondent through recklessness had failed to prevent, the Tribunal was satisfied that it was right to strike the Second Respondent off the Roll of Solicitors.

151. In relation to costs the much greater culpability for these matters lay with the First Respondent, who had acted dishonestly. The Tribunal accepted the submission on behalf of the Second Respondent that an apportionment of the costs was appropriate and that an appropriate division was 70% to be paid by the First Respondent and 30% to be paid by the Second Respondent.

152. The Tribunal ordered that:-

The Respondent Joyce Fortunate Benson of George Street, London, W1H, solicitor, be struck off the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £23,100.

The Respondent Edward Abayomi Chukwuemeka Keazor of Weir Hall Avenue, London, N18, 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 £9,900.

DATED this 3rd day of August 2007
on behalf of the Tribunal

L N Gilford
Chairman