

IN THE MATTER OF *[FIRST RESPONDENT]*, solicitor  
AND SUSANNE ORTON, solicitor's clerk  
*[NAME REDACTED]*  
- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A N Spooner (in the chair)  
Mr R B Bamford  
Mrs S Gordon

Date of Hearing: 29th July 2008

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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 Solicitors Regulation Authority by Jayne Willetts, solicitor advocate and partner with Townshends LLP, solicitors of Cornwall House, 31 Lionel Street, Birmingham, B3 1AP on 14<sup>th</sup> January 2008 that *[FIRST RESPONDENT]*, solicitor of Bournemouth, Dorset, BH7 and Susanne Orton of Bournemouth, Dorset, BH7 who is or was employed or remunerated by a solicitor might be required to answer the allegations contained in the statement which accompanied the application and that such Order might be made as the Tribunal should think fit.

The allegations were that *[FIRST RESPONDENT]* had been guilty of professional misconduct in that:

1. He failed to act in the best interests of his clients in breach of Practice Rule 1(c);
2. He failed to exercise proper and adequate supervision over Susanne Orton, an unadmitted member of staff and failed to exercise adequate supervision over clients' matters in breach of Practice Rule 13;

The allegations in respect of Susanne Orton are that she had been guilty of conduct of such a nature that in the opinion of The Law Society it would be undesirable for her to be employed by a solicitor in connection with his/her practice as a solicitor in that she dishonestly misappropriated clients' monies whilst employed by Harold G Walker, solicitors, as a conveyancing assistant.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 29<sup>th</sup> July 2008 when Jayne Willetts appeared on behalf of the Applicant and Mr *[FIRST RESPONDENT]* appeared in person. Mrs Susanne Orton was not present and was not represented.

The proceedings were issued separately against the Respondents but the Tribunal chose to deal with the matters together.

**At the conclusion for the hearing the Tribunal made the following Orders:**

The Tribunal Orders that the Respondent *[FIRST RESPONDENT]* of Bournemouth, Dorset, BH7, solicitor, be Reprimanded and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,445.78.

The Tribunal Orders that as from the 29th day of July 2008 no solicitor, Registered European Lawyer or incorporated solicitor's practice shall, except in accordance with permission in writing granted by the Law Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor, Registered European Lawyer or member, director or shareowner of an incorporated solicitor's practice Susanne Orton of Bournemouth, Dorset, BH7, a person who is or was a clerk to a solicitor, and the Tribunal further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £23,841.01.

The Tribunal carefully considered the allegations against Mrs Orton and felt it appropriate to make an Order under s.43 of the Solicitors Act 1974.

**The facts are set out in paragraphs 1-28 hereunder:**

1. *[FIRST RESPONDENT]*, born in 1957, was admitted as a solicitor in 1983. Until 2006 he was an equity partner at the firm of Harold G Walker, solicitors of 27 Vicarage Road, Verwood, Dorset, BH31 6DR. He last held a practising certificate for the practice year 2005/2006.
2. On 2<sup>nd</sup> June 2006 Harold G Walker & Co ("the firm") wrote to The Law Society providing a notification of irregularities on clients' accounts. The firm explained that discussions had taken place with The Law Society's Professional Ethics and Advisory Service and the notification concerned the fraud committed by a staff member relating to five client accounts. An internal investigation had taken place at which the staff member had admitted responsibility for the fraud and as a result of which had been dismissed. The firm identified the staff member as being Mrs Susanne Orton and attributed being committed as a result of a gambling addiction which Mrs Orton had suffered for a number of years. The fraud had been committed in an attempt to conceal her gambling debts from her husband and her family. The firm also advised that Mrs Orton had stated that she alone had been responsible for the fraud and her

husband had not been aware of the circumstances until the point of which she had admitted her responsibility.

3. Through its investigations of the matter the firm was able to identify the following matters. In April 2004 Mr and Mrs Orton had purchased a property in their joint names for which [*FIRST RESPONDENT*] had acted as the conveyancer and Mrs Orton as his assistant. They had arranged the financial transactions through the firm's internal accounts system and the conveyancing was carried out under the name of the firm.
4. In March 2005 the property was sold again with [*FIRST RESPONDENT*] doing the conveyancing under the firm's name. £30,000 of the purchase money for the Orton's property was provided via a transfer of money from a client, Mr JAL, who had left a large sum of money on deposit with the firm. Mr JAL had had no connection with Mr and Mrs Orton's transaction and was not aware that the money had been transferred. The firm explained that the £30,000 was used to cover a shortfall in Mr and Mrs Orton's own funds which had been created by Mrs Orton using money from their personal accounts to fund her gambling.
5. In February 2005 Mr JAL asked to withdraw funds from his account and at that stage Mrs Orton arranged to transfer £33,000 to Mr JAL's account from another unrelated client account belonging to Mr and Mrs F.
6. The £33,000 comprised £23,000 of funds belonging to Mr and Mrs F and a further £10,000 which was understood to have been paid into their account by Mrs Orton, which the firm understood had come from Mr and Mrs Orton's personal funds.
7. In September 2005 Mrs Orton arranged a transfer of £23,000 to Mr and Mrs F's account from the account of Mrs L.

Mrs L

8. Mrs Orton arranged to draw a cheque from Mrs L's account of £27,000 payable to a building society account which was later discovered to be in the name of Mr and Mrs Orton. The cheque was signed by [*FIRST RESPONDENT*] who was understood to have acted in good faith on the information provided to him by Mrs Orton.
9. In February 2006 Mrs Orton arranged a transfer of £63,350 to the P McG deceased account from the account of Mrs Lan. She arranged to draw a cheque from Mrs Lan's account for £9,655.98 made payable to a third building society account in the name of Mr and Mrs Orton. The cheque was signed by [*FIRST RESPONDENT*] who again appears to have acted in good faith on the information provided to him by Mrs Orton. Following these transactions there were no funds left in the account of Mrs Lan.
10. In February 2006 enquiries were made by the family of P McG deceased as to the funds believed to have been held on deposit by the firm. At that point the firm's practice manager was alerted of the shortfall in the account and an investigation commenced.

11. On 21<sup>st</sup> March 2006 Mrs Orton drew a cheque from the account of Mr and Mrs I. The firm's cashiers were able to identify that the cheque was made out to the same building society account as the cheque drawn from Mrs L's account and queried the transaction with Mrs Orton who explained she had entered the incorrect account number on the cheque request form and returned the cheque. She also provided a signed statement from the clients confirming that their own account number only differed by one digit.
12. These matters were put to *[FIRST RESPONDENT]* who accepted that there were reasons for concern and undertook to investigate the matter himself. On 27<sup>th</sup> May 2006 Mrs Orton admitted the fraud that she had committed and was dismissed from the firm.
13. As part of the investigation Mrs Orton also admitted to the firm that she had taken smaller sums of money (both less than £500) which clients had given her in cash. She explained that she had returned these sums to the firm in cash and the firm ensured that the sums were returned to the appropriate client accounts.
14. *[FIRST RESPONDENT]* tendered his resignation to the firm which was accepted and undertook to make good all the losses of funds to the firm.

#### Forensic Investigation Report

15. The Forensic Investigation Report is dated 31<sup>st</sup> July 2007. Attached to the Report were details of interviews conducted with Investigation Officers from the Solicitors Regulation Authority on 15<sup>th</sup> February 2007. The Report sought to identify all of the irregular payments carried out by Mrs Orton and identified the ways in which the fraud was committed, particularly in relation to the transfers of monies between the various accounts, the rectification of shortages, the failure to properly supervise an unadmitted member of staff and the misuse of client money.
16. In his interview *[FIRST RESPONDENT]* explained his role within the Verwood branch office. He was the only solicitor working there. *[FIRST RESPONDENT]* explained that in 2003 he and his wife decided to begin planning for their retirement by purchasing buy to let properties in which Mrs Orton would handle the day to day running of the files, liaising with other solicitors, agents, etc and preparing the standard letters whilst *[FIRST RESPONDENT]* checked the contract papers, searches and all other documents. Mrs Orton dealt with the financial aspects of the transactions including the payments of the deposits when contracts were exchanged and the provision of the balance for completion. *[FIRST RESPONDENT]* explained that he would sign all the post that went out from the office including any post sent out by Mrs Orton. Any joint conveyancing matters which involved forms of payments by telegraphic transfer or payments by cheque and inter-ledger transfers, would be carried out by Mrs Orton.
17. In relation to the other transactions Mrs Orton would have been able to open files on the firm's accounts system, when paperwork came in she would then have instigated the necessary conveyancing searches, the title and protocol documents would be checked by *[FIRST RESPONDENT]* as would the searches and if necessary he would prepare additional enquiries on any relevant points. *[FIRST RESPONDENT]* would

draft the transfer and draft any other documents that were necessary to give effect to the transaction.

18. *[FIRST RESPONDENT]* confirmed that he did not go into the financial aspects of a transaction which he would usually leave to Mrs Orton. He confirmed that he would not investigate the ledgers as he regarded this as a fair delegation of work to Mrs Orton whom he trusted. He explained that with his wife he had bought and sold two properties in exactly the same way with no problems. No-one in the firm had told him not to do that anymore and consequently he did not think that he was doing anything wrong.
19. *[FIRST RESPONDENT]* confirmed to the Investigation Officer that in all of the matters in which Mrs Orton had misappropriated clients' monies were all those matters in which *[FIRST RESPONDENT]* had delegated the financial aspects of the matter to his wife and she was then responsible for seeing that the money was in order. *[FIRST RESPONDENT]* explained that there was no way that he could have known that his wife was misappropriating funds from clients' accounts as there was no paperwork on the files and those she had requisitioned cheques by faxing down to the cashier's office there was no way of knowing that she had done this. *[FIRST RESPONDENT]* had explained that he never enquired about whether a particular payment was justified as he was often presented with a pile of cheques by the cashier's office to sign. He was asked to sign them and did just that without checking whether the payments were appropriate or necessary. *[FIRST RESPONDENT]* explained that his view was that the staff in the office were honest and he trusted them and as everything had to go through the cashier's office that was a sufficient safeguard particularly as everything had an account number on it.
20. *[FIRST RESPONDENT]* accepted in response to questions put to him by the Investigation Officer that he had indirectly benefited "in the widest sense of the word benefited" from Mrs Orton's misappropriation of the funds because he explained that he did not know that they had the money. He explained that he did not realise that they needed the money and he had not in any way knowingly enjoyed the money or used it for any particular purpose. *[FIRST RESPONDENT]* confirmed that the £30,000, that was the shortfall on the ledger account towards the purchase of 26 The Curlews, had never been paid back, even though *[FIRST RESPONDENT]* had offered to do so.
21. It was put to *[FIRST RESPONDENT]* that Mrs Orton was only able to do what she did in respect of the financial transactions and the misappropriation of funds because *[FIRST RESPONDENT]* never checked any of the transactions he was being asked to authorise by Mrs Orton because if he had, he would have picked up on the fact that there were irregular movements of monies between accounts.
22. On discovering the various dishonest transactions, *[FIRST RESPONDENT]* explained that he immediately called a partners' meeting and explained that he had discovered that his wife had been dishonest and that he would take steps to put the missing monies back. *[FIRST RESPONDENT]* confirmed that he signed cheques without checking the history of the payments where authorised in terms of the Solicitors Accounts Rules, he did not check the computerised ledger in the firm for each client in respect of the cheques that he signed and he did not supervise his wife so much so

that another partner referred to Mrs Orton as the senior partner in the Verwood branch office and that it was a standing joke amongst the partners that Mrs Orton was in charge of the office.

23. *[FIRST RESPONDENT]* explained that until the evening of 26<sup>th</sup> May 2006 he had no information whatsoever about anything that she had done but went on to explain that his work within the Verwood branch office always meant that he was under considerable stress and was always behind with work. He described working in the office as a sweatshop. He further explained that he had to attend numerous meetings to prepare the firm's strategy for the introduction of their information pack and attributed the pressure of work as causing the problem with Mrs Orton.
24. Mrs Orton was also interviewed by the Investigation Officers. She explained that her role within the firm was described as a conveyancing assistant but her job was to get the work into the firm from agents, open files, send out standard letters, make the necessary checks so far as the identity of the clients were concerned and input the information on to the firm's computer system. At that point she would hand the file over to *[FIRST RESPONDENT]*. He would conduct any enquiries but the file would come back to Mrs Orton to conduct the exchange. Mrs Orton would see the clients for the signing of the contracts unless there was a reason not to see a particular client or if it was a difficult matter but otherwise she would be responsible for organising the exchanges, completions and dealing with the financial statements.
25. Mrs Orton confirmed that £30,000 had been taken from the account of Mr L to fund the purchase of 26 The Curlews and that Mr L was unconnected to the purchase of the property and that her actions in using £30,000 belonging to Mr L to part fund her and her husband's purchase of 26 The Curlews was dishonest. She accepted that she had benefited but that her husband had not benefited from her dishonesty in this matter.
26. Mrs Orton confirmed that she had created a fictitious matter in the mortgage of 38 Keswick Way and this was set up on the firm's computer as a means by which to facilitate the flow of money so that she could get the money from one of their purchase files over to the L file.
27. Mrs Orton also confirmed that Mr and Mrs F were completely unconnected in any way with Mr L and the fictitious ledger account was prepared for the purchase of 71 The Curlews as a means by which to disguise the dishonest transfer. Mrs Orton went on to explain that there was no legitimate basis for the transfer of the £50,000 between the ledger accounts in the matter of P McG deceased and again this transfer was done in order to cover up her dishonest actions.
28. Mrs Orton explained that she was supervised by *[FIRST RESPONDENT]* to the same extent that the other fee earners carrying out conveyancing work in the branch office were. She explained that *[FIRST RESPONDENT]* took pride in his work and was particular in how files were kept, how they were opened and how, when the matters were completed, they were filed. Mrs Orton explained that there would always have been a copy of the ledger account on the files had she not been dishonest. She explained that she was able to carry out the fraud because there were matters in which monies had been held on deposit, the conveyancing formalities had finished, and she felt it was easy for her to have done what she did because she only had to get past the

cashiers and not her husband or whoever it was that was supervising her. When it was put to her that this was because there were no checks on the transfer request forms, Mrs Orton explained that those were not checked.

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

29. Harold G Walker ("the firm") had a head office in Bournemouth and four branch offices. *[FIRST RESPONDENT]* was one of ten equity partners and was in charge of the Verwood branch office. He was responsible for the supervision of his wife Mrs Susanne Orton who was an unadmitted conveyancing assistant. The other staff at the Verwood branch office consisted of a receptionist and another unadmitted conveyancing executive.
30. It was following an internal investigation by the firm that it was discovered that between 2004 and 2006 client money had been misappropriated by Mrs Susanne Orton. This was reported to The Law Society by their letter dated 2<sup>nd</sup> June 2006 by the firm's practice manager who stated that Mrs Orton had admitted the fraud to him on 27<sup>th</sup> May 2006 and as a result of which she had been dismissed.
31. An investigation was initiated by The Law Society on 17<sup>th</sup> August 2006 and as a result of this a Forensic Investigation Report was prepared dated 31<sup>st</sup> July 2007. Mrs Orton was subsequently interviewed by Investigation Officers from the Solicitors Regulation Authority on 15<sup>th</sup> February 2007 at Mrs Orton's home. The Forensic Investigation Report indicated that Mrs Orton had created fictitious files and false accounting records and made inter-client transfers to conceal the fact that she was misappropriating client monies. Monies had been taken from five separate clients resulting in a total client account shortfall of £73,005.98. *[FIRST RESPONDENT]* was the fee earner and partner responsible for all matters where the monies had been misappropriated by Mrs Orton. He had been responsible for the signing of the cheques and signing of correspondence and was responsible to the clients for the handling of their matters. Mrs Orton was not a fee earner in her own right but had been assisting her husband. Mrs Orton had been responsible for generating the cheque requisition forms which bore her initials. All cheques had been signed by Mr Alton. The Forensic Investigation Report provided full details of Mrs Orton's false accounting and the misappropriation of client monies in relation to the transactions relating to 26 The Curlews, Mr JAL, Mr and Mrs F, Mrs L, P McG deceased and Mrs Lan.

#### 26 The Curlews

32. The misuse of client monies began in 2004 when Mr and Mrs Orton purchased the above property from Mr C, a client of the firm, for £141,000. Completion had taken place on 30<sup>th</sup> April 2004 and Mr and Mrs Orton had provided £7,000 of their own funds as a deposit and as a result of which had obtained a mortgage advance of £105,855. Mrs Orton transferred £30,000 from the ledger account to an unrelated matter (Mr JAL) to the sale ledger for the vendor, Mr C in order to fund the balance of the purchase monies.

#### Mr JAL

33. Mr JAL had completed the sale of his property on 8<sup>th</sup> April 2004 and the net proceeds of the sale of £275,346.75 was placed on deposit with the firm's bankers. On 29<sup>th</sup> April 2004 Mrs Orton removed from deposit £65,000 and she used £35,000 as a deposit for Mr JAL's purchase of his property and £30,000 for the purchase of 26 The Curlews.

Mr and Mrs F

34. Mr and Mrs F had paid a deposit of £23,000 to the firm to fund the purchase of their property but the purchase had been aborted. The deposit monies were placed on deposit with the firm's bankers on 17<sup>th</sup> January 2005 but on 7<sup>th</sup> February 2005 Mrs Orton had closed the deposit account and transferred the monies to Mr and Mrs F's ledger. On the same day she transferred this sum to a second ledger in the name of Mr and Mrs F - mortgage 38 Keswick Way, Verwood which was a fictitious ledger. Mrs Orton emailed Mr F on 1<sup>st</sup> March 2005 informing him that his deposit monies (£23,000) were on deposit with the firm's bankers which was inaccurate as the monies had already been misappropriated by Mrs Orton.
35. In order to replace the £30,000 taken from Mr JAL's ledger, Mrs Orton used Mr and Mrs F's deposit of £23,000 and a further sum from her own funds of £10,000. In total she transferred to Mr JAL's ledger £33,000 on 7<sup>th</sup> February 2005.

Mrs L

36. Mrs L completed the sale of her property on 19<sup>th</sup> September 2005 and part of the sale monies placed on deposit with the firm's bankers. Mrs Orton informed Mrs L in a letter dated 19<sup>th</sup> September 2005 that £250,000 had been placed on deposit. However Mrs Orton had only transferred £227,000 as £23,000 had already been misappropriated by her. In order to replace the £23,000 taken from Mr and Mrs F's ledger, Mrs Orton had transferred £23,000 on 6<sup>th</sup> September 2005 from the client ledger of Mrs L to that of Mr and Mrs F. It was first transferred to a fictitious ledger for Mrs L and then to a fictitious ledger for Mr and Mrs F. Mrs Orton then drew a cheque for £27,000 on Mrs L's ledger on 22<sup>nd</sup> September 2005 which was payable to a building society account with the Nationwide in the joint names of her and her husband. In total Mrs Orton misappropriated £50,000 from monies belonging to Mrs L.

P. McG deceased

37. In this matter the deceased's parents were the sole beneficiaries and executors of the estate of P McG deceased. They concluded the sale of the deceased's property on 25<sup>th</sup> November 2005 and £172,015.38 was placed on deposit on that date with the firm's bankers. Four days later on 29<sup>th</sup> November 2005 and in order to replace £50,000 taken from Mrs L, Mrs Orton transferred £50,000 from the account of P McG deceased to that of Mrs L.
38. In addition Mrs Orton drew a cheque on the ledger of P McG deceased for £13,000 on 29<sup>th</sup> November 2005 payable to a building society account with the Portman in the joint names of herself and *[FIRST RESPONDENT]*. In total Mrs Orton was alleged to have misappropriated £63,000 from monies belonging to P McG deceased.



### Mrs Lan

39. On 27<sup>th</sup> January 2006 Mrs Lan completed the sale on her property and £72,903.12 was placed on deposit on behalf of Mrs Lan. On 14<sup>th</sup> February 2006 and order to replace £63,000 taken from P McG deceased, Mrs Orton removed £63,350 from deposit and transferred the same sum from Mrs Lan's ledger account to that of P McG deceased. This was routed via two fictitious ledger accounts set up as channels for the transfer, one in the name of Mrs Lan and one in the name of P McG deceased.
40. In addition on 17<sup>th</sup> February 2006 the deposit account was closed and Mrs Orton drew a cheque on the ledger of Mrs Lan for £9,655.98 payable to a building society account with the Halifax in the joint names of herself and *[FIRST RESPONDENT]*.
41. These matters subsequently came to light following an internal investigation. The shortfalls of £63,350 and £9,655.98 (total £73,005.98) were rectified on 30<sup>th</sup> May 2006 by the firm together with interest of £2,392.98. In addition all clients affected by the misappropriation were paid interest on the money which the firm had been holding on their behalf.
42. It was submitted that *[FIRST RESPONDENT]* had allowed Mrs Orton to take on an unacceptable level of responsibility for his conveyancing matters so that he was totally unaware of the financial transactions being undertaken on behalf of his clients and of their instructions. It was alleged that he had no control over the actions being undertaken by Mrs Orton on behalf of his clients.

### The Law Society Investigation

43. A copy of the Forensic Investigation's Report was sent to *[FIRST RESPONDENT]* on 13<sup>th</sup> September 2007 requesting him to provide an explanation for his conduct. In particular concerns were raised as to the level of supervision exercised by him over Mrs Orton and whether or not he personally checked or authorised any of the accounting request forms. He was also asked whether he had discussed with his wife the arrangements to fund the purchase of 26 The Curlews by himself and his wife.
44. *[FIRST RESPONDENT]* replied by letter dated 30<sup>th</sup> September 2007 providing his detailed observations on the Forensic Investigation Report together with further documentation. He confirmed that he did not personally check or authorise the accounting request forms prior to their submission to the accounts department at the head office in Bournemouth. He also provided evidence of monies raised by him and his wife to purchase 26 The Curlews as well as three other properties in the total sum of £148,144.28 which was in excess of the sums required of £101,272.60. He stated that he was unaware that Mrs Orton had spend £123,460 of their personal funds on her gambling addiction between 1<sup>st</sup> May 2003 and 31<sup>st</sup> May 2006. *[FIRST RESPONDENT]* explained that he only became aware of the misappropriation of monies by his wife on 26<sup>th</sup> May 2006 when it was drawn to his attention by the firm.

### ***[FIRST RESPONDENT]***

45. *[FIRST RESPONDENT]* appeared before the Tribunal and explained that he admitted both of the allegations. Up until June 2006 he was a senior equity partner at Harold G

Walker and was at all material times a fee earner and partner in the firm during the period that Mrs Orton misappropriated monies. He signed cheques and therefore bore all the responsibility for Mrs Orton's conduct. He explained that she was not a fee earner but was merely his assistant within the conveyancing department at the Verwood branch office. It had been alleged that he knew of the transfers that had taken place but that he had subsequently been able to produce evidence that he had not known anything about what his wife had been doing. He accepted that he had allowed her to take on an unacceptable level of risk for the conveyancing matters and that he had not exercised sufficient or adequate control over Mrs Orton over the client matters which she was dealing with. He accepted that he had not checked the transfer forms that had been signed by Mrs Orton.

46. He explained that it had transpired that Mrs Orton had misappropriated the monies because of a gambling addiction on which she had managed to get through £123,000 between May 2003 and May 2006. He only discovered the losses after an investigation.
47. He had worked all his life and had started as an articled clerk when he had met his wife who was a secretary. They had two children and Mrs Orton had two children from her previous marriage. He had worked at the Verwood branch office for 13 years but had found that he was working longer and longer hours. At the time the offences had been committed *[FIRST RESPONDENT]* explained that he was working six days a week and had last taken a week's holiday in February 2006.
48. He was made the head of the conveyancing team and was given the responsibility of creating a case management system for the information packs and dealt with any issues surrounding unadmitted fee earners. He explained that it was due to the stress of work that Mrs Orton started going to Bingo and playing on fruit machines. An analysis of their bank statements showed that Mrs Orton was spending £200-£300 a week and sometimes £500. Mrs Orton began losing her hair and started drinking alcohol heavily as a means by which to deal with the stress of work. When it was explained to *[FIRST RESPONDENT]* what had been discovered in relation to Mrs Orton's activities, *[FIRST RESPONDENT]* could not believe what he was being told and that payments had been made into a dormant account. A meeting took place with the equity partners at which Mrs Orton admitted taking the monies. The partners initially refused to accept that *[FIRST RESPONDENT]* was not involved but when they were satisfied that he had no knowledge of what had occurred, they agreed to support him but later asked him to leave the partnership for fear of the publicity the matter would generate.
49. Mrs Orton had made arrangements to seek treatment for her gambling addiction and during this period the firm threatened them with bankruptcy.
50. No action was taken by the police until July 2007 when Mrs Orton was arrested for false accounting and theft. On 4<sup>th</sup> May 2008 Mrs Orton pleaded guilty at the Crown Court and sentencing was adjourned for pre-sentence reports to deal specifically with the pathological gambling addiction.
51. *[FIRST RESPONDENT]* went on to explain that whilst it was suggested that Mrs Orton was a conveyancing assistant, he explained that she was much more than that

and she had extensive responsibilities within the firm. He explained also that despite the fact that the firm had been alerted to the fraud that had been committed, they nevertheless allowed her to pay a cheque for £6,000 on 14<sup>th</sup> February 2006 into their joint account and they had failed to prevent that.

52. *[FIRST RESPONDENT]* went on to explain that he had incurred extensive legal costs as a result of his dispute with the firm, he had lost his career and was unlikely to be able to reach the same position if he continued in practice.

### **The Submissions of Mrs Orton**

53. Mrs Orton did not attend the hearing as a result of serving a custodial sentence. She was not represented at the hearing.

### **The decision of the Tribunal**

54. The Tribunal found this a sad and difficult case. They heard mitigation and took the view that it would be preferable if systems were put in place in order to avoid husband and wife teams working together particularly where there were no other parties or supervision. This was a simple but clever fraud. *[FIRST RESPONDENT]* had acted with honesty and integrity and it was clear that it had had a devastating effect on him. He had suffered from bad publicity and the Tribunal took the view that in respect of all of the allegations against him a reprimand would be appropriate.
55. Whilst the Tribunal accepted that *[FIRST RESPONDENT]* was unaware of the fraud being committed by his wife, it was clear that he and his wife held positions of trust and their relationship and *[FIRST RESPONDENT]*'s supervisory role within the Verwood branch office meant that Mrs Orton was able to conceal the fraud for the length of time she was able to. The Tribunal accepted that *[FIRST RESPONDENT]* played no part in the fraud but the lack of proper procedural and supervisory safeguards allowed Mrs Orton to transfer funds from the various accounts without proper questions being asked. Her in-depth knowledge of the clients' accounts placed her in a unique position so that she could transfer funds without suspicion being raised up until the point that the shortfall was identified in one of the accounts.
56. The Tribunal Ordered that the Respondent *[FIRST RESPONDENT]* of 100 Durrington Road, Boscombe East, Bournemouth, Dorset, BH7 6PZ, solicitor, be Reprimanded and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,445.78.
57. The Tribunal carefully considered the allegations against Mrs Orton and felt it appropriate to make an Order under s.43 of the Solicitors Act 1974 and that she should pay the costs of and incidental to this enquiry in the sum of £23,841.01.

Dated this 4th day of December 2008  
On behalf of the Tribunal

A N Spooner  
Chairman