

IN THE MATTER OF BARBARA JOY LEDGISTER, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr W M Hartley (in the chair)  
Mr R Nicholas  
Lady Maxwell-Hyslop

Date of Hearing: 9th October 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 (SRA) by George Marriott solicitor and partner in the firm of Gorvins of 4 Davy Avenue, Knowlhill, Milton Keynes, MK5 8NL on 6<sup>th</sup> March 2008 that Barbara Joy Ledgister of 1421A London Road, Norbury, London, SW16 4AH might be required to answer the allegations contained in the statement which accompanied the application and that such Order might be made as the Tribunal should think right.

On 24<sup>th</sup> April 2008 Mr Marriott, the Applicant, made a supplementary statement containing further allegations.

On 18<sup>th</sup> July 2008 the Applicant made a second supplementary statement containing a further allegation.

The allegations set out below are those contained in the original and two supplementary statements.

The allegations were that the Respondent:-

- (i) Failed to respond substantively or at all to correspondence from the Solicitors Regulation Authority.

- (ii) Failed to register her practice with the SRA, contrary to the Rule 1 of the Solicitors Practice Rules 1990 and Rule 5 of the Solicitors' Code of Conduct 2007.
- (iii) Failed to produce bank statements for inspection, contrary to Rule 34 of the Solicitors Accounts Rules 1998.
- (iv) Attempted to mislead the SRA by stating that she did not and had never held client funds as a solicitor.
- (v) Failed to maintain proper accounting systems and records to show accurately the position with regard to the money held for each client, contrary to Rule 32 of the Solicitors' Accounts Rules 1998.
- (vi) Failed to deliver Accountant's Reports, contrary to the requirements of Section 34 of the Solicitors Act 1974.
- (vii) Failed to maintain qualifying indemnity insurance [this allegation was amended during the course of the hearing]
- (viii) Failed to ensure that her office was staffed by a person suitably qualified to supervise in her absence.
- (ix) Practised as a solicitor without a practising certificate.
- (x) Failed to respond substantively or at all to correspondence from the SRA, contrary to Rule 20 of the Solicitors' Code of Conduct 2007.
- (xi) Wrongly held herself out as a practising solicitor when she had no practising certificate contrary to Rule 20.01(2)(b).

The application was heard at The Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 9<sup>th</sup> October 2008 when George Marriott appeared as the Applicant and the Respondent was represented by Andrew Blatt, solicitor of Messrs Murdochs Solicitors.

The evidence before the Tribunal included the admissions of the Respondent of all of the allegations save that in respect of allegation (iv) the Respondent denied that she deliberately attempted to mislead the SRA. She accepted that regrettably the SRA might have been misled by her innocent representations. A letter from BW Electrics Limited was handed up at the hearing as was a bundle of testimonials in support of the Respondent.

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

The Tribunal Orders that the Respondent Barbara Joy Ledgister of 1421A London Road, Norbury, London, SW16 4AH, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 9th day of October 2008 and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £9,031.00 inclusive.

**The facts are set out in paragraphs 1 - 26 hereunder:-**

1. The Respondent, born in 1956, was admitted as a solicitor in 1990 and her name remained on the Roll. The Respondent had previously qualified as a Jamaican Attorney at Law. The Respondent carried on practice as a solicitor on her own account from 1421A London Road, Norbury, London SW16 4AH.
2. The SRA wrote a letter to the Respondent dated 16<sup>th</sup> August 2006 asking whether she was practising as a solicitor on her own account or in employment.
3. The Respondent replied by letter dated 29<sup>th</sup> August 2006 in which she said that since leaving employment she had operated mainly as a "Jamaican Attorney-at-Law" but continued to hold a practising certificate. She said that she held clients' funds in her capacity as a Jamaican Attorney-at-law.
4. In a letter of September 2006 the SRA asked for a copy of the Respondent's letterhead and details of her indemnity insurance. In the absence of a reply the SRA wrote letters to the Respondent in November 2006, January, March and April 2007. No reply was received to any of the letters. The letter of March 2007 was sent by recorded delivery. The Respondent did write to the SRA on 25<sup>th</sup> May 2007 asking for a copy of the March 2007 letter.
5. An Investigation Officer of the SRA (the IO) commenced an inspection of the Respondent's books of account and other documents on 16<sup>th</sup> May 2007. The IO's Report dated 12<sup>th</sup> September 2007 was before the Tribunal.
6. The Respondent told the IO that she had practised on her own account since January 1999, mainly as a Jamaican Attorney-at-Law, advising on matters of Jamaican law such as property transactions in Jamaica and the administration of estates with assets in Jamaica. The Respondent stated that she also undertook work as a solicitor in England and Wales. The Respondent practised on her own account but did not register her practice as a firm of solicitors with the SRA. The Respondent explained that to do so would not be cost effective. The Respondent told the IO that she did not consider herself to be a sole practitioner. She had undertaken work for privately paying clients and she had held herself out as a solicitor when undertaking immigration work.
7. The Respondent told the IO that she maintained separate office and client bank accounts. The office bank account statements were not available for inspection.
8. The Respondent told the IO that she held clients' funds as a solicitor on account of fees for her services and for disbursements such as counsels' fees and application fees in connection with immigration work. The Respondent had previously in her letter dated 29<sup>th</sup> August 2006 told the SRA "I do not and have never held clients' funds qua solicitor."
9. The Respondent did not operate a bookkeeping system. She told the IO that it was a "work in progress." The Respondent explained that she maintained a manual record in which she recorded payments generally on blue slips which were generally attached to the files. A typed note of 16<sup>th</sup> May 2007, provided to the IO by the Respondent, stated that "between the receipts and the paying in book as appropriate there should be

a record of what payments have been [made]". The note also indicated that the Respondent had discussed the need to set up ledger accounts with her accountant but these had not yet been set up.

10. The IO identified a number of breaches of the Solicitors' Accounts Rules. The Respondent had not maintained records and proper accounting systems which recorded the money held for each client; she had not recorded all dealings with client money in a client cash account; she had not recorded all dealings with client money on a client ledger account or dealings with office money in an office cash account or on the office side of the appropriate client ledger account. She had not carried out reconciliations.
11. The Respondent had told the IO that she did not hold qualifying indemnity insurance and had not applied to enter the Assigned Risks Pool.
12. When submitting her application for a practising certificate forms for the practice years 2001/2002 and 2002/2003 the Respondent submitted an 'Errors & Omissions (Miscellaneous) Certificate'. That did not meet the minimum terms and conditions required by the Solicitors' Indemnity Insurance Rules.
13. In applications for the practice years 2003/2004, 2005/2006 and 2006/2007 the Respondent stated that she was awaiting confirmation of renewal. The Respondent had confirmed to the SRA that the insurers she approached had refused her applications for cover.
14. The Respondent had applied for indemnity cover from the Assigned Risks Pool ("ARP") for the indemnity years 2000/2001, 2001/2002, 2005/2006 and 2006/2007. The Respondent was not an 'eligible firm' for the purposes of seeking cover for the years 2002/2003, 2003/2004, 2004/2005 or 2007/2008 as she had been in the ARP for 24 months or more in the four indemnity periods immediately prior to the date from which cover was required.
15. On 29<sup>th</sup> February 2008 the Respondent was required to address the allegation that she had misled the SRA by stating on her practising certificate applications that she was taking steps to obtain appropriate indemnity cover when this was not the case. The Respondent did not do so.
16. The IO's Report was sent to the Respondent on 3<sup>rd</sup> October 2007 together with a request for her explanation of her failure to register her practice, her failure to deliver Accountant's Reports and her failure to maintain proper accounts records. The SRA also requested confirmation of the date upon which the Respondent first held client monies and details of indemnity insurance policies she had maintained between the years 2000/2001 to 2006/2007. The SRA required a response within 14 days. The Respondent did not respond.
17. Attempts were made by the SRA to contact the Respondent by telephone. An unadmitted member of her staff had answered the telephone and appeared to be supervising the office in the Respondent's absence when she was in Jamaica between 2<sup>nd</sup> and 29<sup>th</sup> October 2007.

18. A further letter was sent by the SRA to the Respondent by recorded delivery on 22<sup>nd</sup> October 2007, requiring her response to the issues raised by the IO's Report and seeking an explanation of the supervision arrangements in place at her practice during her absence. The response was to be by 2<sup>nd</sup> November 2007.
19. The Respondent telephoned the SRA caseworker on 31<sup>st</sup> October 2007. She confirmed that she had returned from Jamaica and would attend to the correspondence from the SRA as a matter of priority. The Respondent did not respond. The SRA sent a further letter to her on 14<sup>th</sup> November 2007. The Respondent did not respond.
20. The Respondent's practising certificate was terminated on 13<sup>th</sup> December 2007 because she did not submit an application to renew her certificate for the practice year 2007/2008. Concerned that the Respondent was continuing to act as a solicitor without a practising certificate, the SRA left a telephone message for and wrote to the Respondent on 20<sup>th</sup> December 2007 requiring her immediate response.
21. No response was received to the letter, or to two telephone messages left on 2<sup>nd</sup> and 11<sup>th</sup> January 2008. A letter was sent on 11<sup>th</sup> January 2008 which enclosed copies of the letters of 3<sup>rd</sup> October, 22<sup>nd</sup> October, 14<sup>th</sup> November and 20<sup>th</sup> December 2007 to which the Respondent had not replied. The Respondent did not respond to the letters or to a further attempt to contact her by telephone on 28<sup>th</sup> January 2008.
22. The Respondent did not make representations on the SRA Caseworker's report dated 14<sup>th</sup> February 2008. She was asked to do so within 14 days.
23. The SRA caseworker telephoned and spoke with the Respondent on 29<sup>th</sup> February 2008. A contemporaneous telephone attendance note taken by the SRA caseworker recorded and that the Respondent said that she had not received the SRA's letter of 14<sup>th</sup> February 2008 but could offer no explanation why she had failed to return telephone messages. She said that she continued to deal with immigration matters as a solicitor.
24. The SRA sent a further copy of the letter and report requiring any representations from the Respondent by 5<sup>th</sup> March 2008. The Respondent replied by letter of 3<sup>rd</sup> March 2008 requesting a three week extension of time within which to make representations.
25. On 6<sup>th</sup> March 2008 an Adjudication Panel of the SRA considered the IO's Report and resolved to intervene into the Respondent's practice.
26. The SRA wrote to the Respondent by letter dated 19<sup>th</sup> May 2008. The Respondent replied by letter dated May 2008 on letterhead which described her as, "Solicitor of England and Wales, regulated by the Law Society" when the Respondent's practising certificate had been terminated on 13<sup>th</sup> December 2007 and her practice intervened into on 10<sup>th</sup> March 2008. A letter addressed by the Respondent to the SRA of 11<sup>th</sup> June 2008 was written on identical letterhead.

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

27. The Applicant had admitted the allegations but she disputed the allegation of dishonesty made in connection with allegation (iv). The Respondent in her statement had indicated that she had an honest belief that the statement that she made at the time was true. The Applicant recognised that an allegation of dishonesty required a high standard of proof. The Tribunal was invited to apply the two part test set out in the case of *Twinsectra Ltd v Yardley and Others* [2002] UKHL 12. Whether or not anyone had suffered loss was not relevant to that test. It was for the Tribunal to consider the Respondent's conduct.
28. The Respondent had used letterhead on which she was described as "Attorney at Law". She was, however, subject to regulation by the SRA albeit in a limited way but she did not hold a client account. When the SRA asked the Respondent to provide her letterhead and details of her professional indemnity insurance the Respondent did not reply. To that extent the Respondent had not cooperated with her professional regulator.
29. The Respondent indicated that she had suffered from problems with her post. She had not, however, sought to use email or fax to obviate such problems.
30. The Respondent admitted that she held client money and that the work that she undertook in particular for immigration clients as an English solicitor was subject to regulation by the SRA. In connection with immigration work the Respondent had taken money on account of fees. She had made a misleading statement to her professional regulator a year earlier. The Respondent had come to admit that she did accept money that should properly have been paid into a client account. She had come to agree that the immigration work that she undertook in the United Kingdom was work that came within the ambit of the SRA. That being the case then she had to be regulated by that body. If the Respondent accepted the privileges of practice as a solicitor in England and Wales then it was incumbent upon her also to accept the regulatory requirements. The Respondent must have known that what she said in August 2006 was wrong and was dishonestly wrong.
31. The Respondent had indicated that her practice was based in the main in Jamaica and she acted as a Jamaican Attorney at Law. That being the case she was not required to be regulated by the SRA for that purpose. It was appropriate that she be subject to the Jamaican Regulator. However, the Respondent did undertake work as a solicitor. She should have registered her firm with the Law Society and she did not. The Respondent acted for privately paying clients in their immigration affairs. Part of the regulation of solicitors by the SRA was the requirement to be registered with that body.
32. The Respondent had admitted allegation (ii). She had not produced bank statements. They were not available to the IO and the Respondent had a clear duty to make those statements available.
33. The Respondent had been guilty of an accounts systems failure. She did not maintain a bookkeeping system describing the situation as "work in progress". Proper records were necessary to enable a solicitor to see immediately what money had been deposited on behalf of a client and how many clients had passed money to the firm to

be held on their behalf. The Respondent indicated that she kept manual records and that "blue slips" had been attached to her files. She had discussed the need to set up ledger accounts with her accountant. The Respondent accepted that she had failed to maintain proper records or a proper accounting system. The Respondent had not filed an Accountant's Report with the Law Society as was required by a practising solicitor.

34. The Respondent had continued to practise as a solicitor without having professional indemnity insurance in place and without making an application to join the ARP.

**The Submissions of the Respondent (to include her mitigation)**

35. The Respondent was admitted as a solicitor on 15<sup>th</sup> June 1990. She was also a Jamaican Attorney at Law, having been admitted as such in 1984.
36. Whilst in the UK, as a solicitor, the Respondent had worked at Lewisham Law Centre between 1987-1999 and had worked as a solicitor on her own account between 1999-2008, having set up Barbara J Ledgister solicitors in 1999.
37. The Respondent practised predominantly Jamaican Law under the umbrella of her Jamaican certificate. Approximately 5% of her overall workload was in respect of matters where she would advise as a UK solicitor in the main giving immigration advice.
38. Because of the very small volume of UK cases, and because the Respondent felt that the immigration cases were not reserved work under the Solicitors Act, she had not considered that she was practising as a UK solicitor. She had explained her position in this respect to the SRA. She did not consider that she was "a firm of solicitors".
39. The Respondent had come to accept that she had not properly distinguished her role and obligations as a UK solicitor from a UK solicitor running (albeit as a sole principal) a UK firm.
40. The Respondent had had a significant medical history and her ongoing illness had affected her ability to concentrate on essential matters, including dealing with correspondence from the SRA.
41. With regard to allegation (i) the Respondent had suffered continuing problems with the receipt of post at her former practice address, including receipt of recorded delivery mail. The Respondent did respond to the SRA by way of a letter dated 29<sup>th</sup> August 2006. She had no intention of deliberately failing to respond to letters but simply did not receive them. The Respondent had complained to Royal Mail about the level of service she received as had a local firm of electrical contractors who were her landlords.
42. The Respondent had no reason not to respond to the SRA.
43. With regard to allegation (ii) the Respondent had told the SRA:-

"...That is difficult one to answer because I am not set up as a firm of solicitors for the amount of work that I do as a solicitor it is not cost effective, I don't hold funds as solicitor .....

My practicing [sic] certificate application has always stated that the work I do both as a Jamaican Attorney and as a solicitor.....

My understanding is that I have never been advised to register per se as a solicitor because I have always maintained that if one is practicing [sic] as a firm that would be with the understanding that there is a large caseload in relation to solicitors work in England and Wales...."

44. The Respondent had not really addressed the issue of registration in an appropriate way. She had explained the general position and that she did not perceive her practice really to be a UK practice but it was an "add on" to her Jamaican practice. With the benefit of hindsight the Respondent had come to accept that she had been wrong.
45. The Respondent had incorrectly made a distinction between being a "solicitor" in the UK and practising as "a firm".
46. With regard to allegation (iii), when the IO attended the Respondent's office she did not have her office or client account statements available. They had not been requested by the IO subsequently. There was no attempt deliberately to withhold the statements.
47. With regard to allegation(iv), namely that she attempted to mislead the SRA stating that she did not and never had held client funds as a solicitor, the Respondent had completely misunderstood what constituted a "sole practice". In her letter to the SRA the Respondent had said:-
- "...I am not in sole practice because of what sole practice denotes or entails. I am in the main a Jamaican attorney at law"
- "...That is difficult one to answer because I am not set up as a firm of solicitors for the amount of work that I do as a solicitor it is not cost effective, I don't hold funds as solicitor..."
48. When asked by the IO whether she paid third parties, the Respondent had replied:-
- "Just Counsel...I collect the fees and pay counsel..."
- "My fees go into office account and any fees I get for counsel goes into client account..."
49. Later the Respondent sought to clarify this by saying:-
- "The fact is that I do not hold clients money as a solicitor save and except that I collect fees for my services and that an [sic] in the event there are appeals the barristers fees are collected and paid over ....."
50. The Respondent had had the mistaken belief that she did not hold client funds. Part of the confusion arose from the fact that the Respondent held only one office and one client account both in respect of her Jamaican practice. She never believed that the client account was a UK solicitor's client account. The Respondent had never understood the distinction properly which caused her to make apparently inconsistent representations.



51. The Respondent had a genuine, but mistaken, belief that she did not hold client funds as a solicitor's practice. Her naivety served to negate the allegation that she deliberately sought to mislead the SRA.
52. The Respondent acted for very few (approximately 20 clients per annum) in respect of litigation. Other clients were advised by way of a consultation, many of them were dealt with pro bono. The Respondent maintained inadequate records and books but with the belief that she would have them written up. She relied on her accountant, but did not consider that there was any urgency because the work undertaken was "work in progress".
53. There was no allegation of any shortfall of clients' funds. There had been no claims on the Law Society's compensation fund. The sum held by the Respondent at the date of the IO's inspection was less than £20,000, the majority of such funds being held for Jamaican Attorney clients.
54. The Respondent had maintained "receipts" and "paying in" books and it was her belief that they would always have been sufficient to have the books written up in any event.
55. The Respondent's failure to file Accountant's Reports was also based upon the Respondent's mistaken belief that she was not in practice. The genuine, but mistaken, belief meant that it was never a factor that affected her mind. The Respondent was not aware that the requirement to file a Section 34 Accountant's Report was an obligation upon her as she believed first that she was not in practice (as a firm) and secondly that she did not hold "client money."
56. With regard to indemnity insurance the Respondent had been covered by AON, a qualifying insurer from 1996 to 2004 (the last year being 2002/2003). When AON refused to renew her cover the Respondent operated under the mistaken belief that she was able to continue as a solicitor whilst negotiating new insurance. The Respondent believed this to be the case until March 2008. In fact the Respondent made many applications but simply could not obtain insurance. One of the reasons was that the volume of immigration work was simply not big enough.
57. Having been refused renewal of her insurance the Respondent made efforts to obtain cover. She did make application to the ARP.
58. The Respondent had made it clear that she was not insured at the date of her application for a practising certificate by making it clear that she was "awaiting confirmation" of cover. There came a point when she applied for retrospective cover from the ARP (2007). It was wrong to say that cover with the ARP was never applied for. Indeed it was applied for and was provided retrospectively for certain years. The apparent duplication for two years was because the cover which the Respondent had was inadequate. She believed that the cover had been adequate as it was "Professional Indemnity Insurance". It was relevant that it was always AON who had insured the Respondent.
59. The letter from the SRA dated 14<sup>th</sup> March 2008 demonstrated that the Respondent had applied for an extension of cover for more than the two year period, but owing to the intervention into her practice, her application was to be "terminated".

60. The Respondent had come to accept that there were periods where she practised without adequate cover. The Tribunal was invited to accept that her mistake was an innocent error caused by a genuine but mistaken belief first in the sense that she had appropriate cover and secondly in the sense that she could practise as a UK solicitor whilst seeking adequate cover.
61. No claims had been made in any insurance year.
62. When the Respondent was absent from her UK office for any appreciable period of time she had an arrangement in place with another solicitor that she would assist when called upon. Generally, during periods of absence there were no active cases. Another solicitor also offered to help if any problems arose in the Respondent's absence. The staff at the office had the Respondent's mobile telephone number and her home, office and fax numbers in Jamaica. The Respondent had not appreciated the technical supervisory requirements but genuinely believed that the arrangements she put in place were sufficient to protect any UK or Jamaican client. With the benefit of hindsight and advice the Respondent accepted that her office was not appropriately supervised when she was away.
63. It was accepted that after her practising certificate was terminated, the Respondent practised, technically, without a practising certificate. She had been unaware of this. The Applicant was mistaken in believing that no practising certificate application had been made for the practice year 2007/8. A refund of the practising certificate application fee was made in respect of the Respondent's failed application for 2007/8.
64. The Respondent regretted that she failed to respond to correspondence from the SRA. It was unclear exactly what correspondence had been received at different times. The Respondent had suffered postal difficulties. It could not be denied that the Respondent received the letter of 22<sup>nd</sup> October 2007. She had every intention of responding but was undermined by health issues and work commitments. Events then overtook the Respondent. She became overwhelmed and failed to deal with the matter.
65. Additionally it was accepted that the Respondent received the letter of 29<sup>th</sup> February 2008. The fact that it was sent by recorded delivery provided the Respondent with only a limited time to respond. She wrote on 3rd March 2008 asking for three weeks to respond. This was not granted and the matter moved swiftly to the Adjudication Panel which ordered an intervention.
66. The Respondent had sent letters to the SRA that had been on old notepaper. They had not been written to a client or a former client. They had been sent in error. The Respondent had had up-to-date and accurate letterhead.
67. The Respondent had been born in Jamaica. She was 52 years of age. She studied in Barbados and was admitted to the Jamaican Bar in 1984. She had lived in the United Kingdom since 1986. She was married with two children aged 15 and 13.
68. Since the intervention into her practice the Respondent's financial position had become precarious. This was predominantly because the Jamaican community in the UK is a small community and while the disciplinary proceedings remained

outstanding, the community believed that the Respondent could not practise - even in her capacity as a Jamaican lawyer.

69. The Respondent could not expect the Tribunal readily to accept that a lawyer in two distinct jurisdictions could hold such a number of mistaken and misguided beliefs. She had held the view that her UK solicitor work had been a "spin off" from her Jamaican work and represented only a tiny proportion of her workload.
70. The Respondent now understood the UK regulatory regime and understood that in the normal course of events without explanation and mitigation she would be facing a serious sanction.
71. The Tribunal was invited to take into account the fact that there had been no client complaints and no claims on the Law Society's compensation fund and there had been no claims on the Respondent's professional indemnity insurance that had been in place.
72. A serious sanction imposed by this Tribunal would be likely to have a serious adverse effect on the Respondent's Jamaican licence and might well bring her professional career to an end.
73. The Tribunal was invited, having heard the Respondent's explanations, to find that the Respondent had not at any time acted dishonestly. The Respondent recognised that her failings were extremely serious but they were not so serious that they fell within the guidelines provided in *Bolton v The Law Society*. It would be disproportionate to make an order depriving the Respondent of her livelihood for anything less than a short period.
74. At the date of the hearing the Respondent was impecunious.
75. The Tribunal was asked to allow the Respondent to continue in practice. She would be willing to submit to the following limitations on her practice.
  - (a) She should not practise as a principal in any capacity for at least five years and then only with the consent of the SRA.
  - (b) She be able to practise in an approved practice, approved by the SRA.
  - (c) She practise only in the area of immigration law. Any variation of this condition would have to be agreed with the SRA.
  - (d) The Respondent would accept a suspension from practice until she has taken an accredited course on the SAR within six months and she takes an accredited course on the Solicitors Code of Conduct within six months.

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

76. The Tribunal accepted the Respondent's position that it should in the light of her admissions hear her submissions which included her mitigation before considering its findings.

77. The Tribunal found the allegations to have been substantiated, indeed they were not contested save for the Respondent's denial that her misleading of the SRA was inadvertent and not deliberate in relation to the subject matter of allegation (iv).
78. The Tribunal was deeply concerned that the Respondent appeared to have had a wholesale disregard for the regulatory requirements imposed upon solicitors. Those requirements were, of course, in place to ensure that members of the public had a proper protection and to enable the Law Society/SRA fully and properly to achieve effective regulation also in the interests of the public and to ensure that the good reputation of the solicitors' profession was upheld.
79. It had been the Applicant's case that in relation to the subject matter of allegation (iv) the Respondent had been dishonest. The Tribunal had applied the "combined" test in *Twinsectra v Yardley* but had concluded that the Respondent's misleading of the SRA had not been deliberate and that the Applicant's case fell short of the high standard of proof that the Tribunal must engage in determining that she had been dishonest.
80. The Tribunal looked at the Respondent's conduct in the round. It concluded that the Respondent had in the main misdirected herself. The Tribunal accepted and recognised that only a very small proportion of the work undertaken by the Respondent was work of a solicitor in respect of which she had to meet a solicitor's regulatory requirements. Although it appeared that the Respondent had at first acted as a solicitor should, she appeared to have allowed the fact that her regulated solicitor's work was so small that she did not need to continue to meet full compliance.
81. In reaching this conclusion the Tribunal had taken into account the background information provided by the Respondent. The Tribunal noted that the Respondent had served as a trainee solicitor and had practised in situations other than private practice. She had not taken with her to private practice any experience of regulatory compliance. That was no excuse for her failures but it was a background that made her failures perhaps more understandable.
82. The Tribunal also took into account the excellent testimonials written in support of the Respondent all of which attested to her integrity and competence.
83. An additional factor in the whole unfortunate state of affairs was the fact that the Respondent had suffered from debilitating ill health which had required hospitalisation.
84. The Tribunal was however very concerned that on the face of it, it appeared that the Respondent had sought to avoid regulatory requirements perhaps on the basis that the cost of compliance was disproportionate to the amount of work undertaken. In such circumstances the Respondent's proper course would have been to cease to undertake regulated work rather than to cease to comply with regulatory requirements.
85. The Tribunal's chief concern was that the Respondent had not recognised the fundamental importance of regulation and compliance with regulatory requirements and the need to ensure that her clients were fully protected as were the clients of other solicitors.

86. The Tribunal reached its conclusion on the question of whether the Respondent was dishonest, having found that the Respondent was a competent solicitor who was found by others to be of integrity. The Tribunal thought that perhaps her use of somewhat flowery language had obscured the fundamental meaning of what she was trying to say and in the light of the fact that the Respondent had not given sufficient regard to regulatory requirements because of the small proportion of work undertaken by her that was required to be regulated the Respondent's conduct was not dishonest by the standards of reasonable and honest people. The Tribunal gave the Respondent credit for her admissions and the recognition that her failures had not been acceptable. No client had suffered loss and no client had made any complaint. The Tribunal was satisfied so that it was sure that the Respondent did have an honest belief that what she was saying to the SRA was correct and it could not be said that the Respondent knew that in saying what she did she was dishonest by those same standards of reasonable and honest people.
87. In all of the circumstances the Tribunal considered that the Respondent's conduct could be met by the imposition of an indefinite suspension from practice.
88. It would, of course, be open to the Respondent to apply to this Tribunal to have that period of suspension brought to an end. The Tribunal wished to make it plain here that it would be unlikely to give favourable consideration to such an application unless the Respondent could demonstrate that she fully understood the need for regulatory compliance and all aspects of such issues, she fully understood the Solicitors' Accounts Rules, she had corrected so far as was possible all of her failures, she had brought up to date the filing of her Accountant's Reports, she had met all of the outstanding costs including the payment of any outstanding indemnity premiums whether to the ARP or otherwise and had met all of the costs of bringing the application before the Tribunal. This list of matters with which the Respondent would be required to deal was not exhaustive and the Tribunal considering any application to bring the indefinite suspension to an end would also require evidence that the Respondent was fit in every other way to practise as a solicitor.
89. The Tribunal ordered that the Respondent be suspended from practice as a solicitor for an indefinite period to commence on 9<sup>th</sup> October 2008 and it further ordered her to pay the costs of and incidental to the application and enquiry fixed in the sum of £9031.00 inclusive, such costs having been agreed between the parties.

Dated this 9<sup>th</sup> day of January 2009  
On behalf of the Tribunal

W M Hartley  
Chairman