

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12544-2024

## BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

DOMINIC LEON MACKNIGHT

Respondent

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Before:

Mrs L Boyce (in the Chair)

Mrs F Kyriacou

Ms J Rowe

Date of Hearing: 10 June 2024

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## Appearances

Mr Montu Miah, barrister of Solicitors Regulation Authority Limited, The Cube, 1999, Wharfside Street, Birmingham, B1 1RN, for the Applicant

The Respondent represented himself

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## JUDGMENT

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## **Allegations**

1. The allegations against the Respondent, Dominic Leon Macknight, are that while in practice as a Director at Lawson Taylor Solicitors Limited (“the Firm”):
  - 1.1. Between November 2021 and September 2022, he caused, or allowed to be caused, improper withdrawals from the Firm’s client account into the office account which led to a minimum cash shortage of £16,308.00, and in doing so, breached any or all of:
    - (i) Principles 2, 4 and 5 of the SRA Principles 2019.
    - (ii) Rule 5.1 of the SRA Accounts Rules 2019.
    - (iii) Paragraph 4.2 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019.
2. He failed to promptly replace the £16,308.00 minimum cash shortage and, in doing so breached any or all of:
  - (i) Principle 2 of the SRA Principles 2019.
  - (ii) Rule 6.1 of the SRA Accounts Rules 2019.
  - (iii) Paragraph 4.2 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019.
3. Between October 2022 and July 2023, he provided the SRA with inaccurate and/or misleading explanations and subsequently failed to cooperate with the SRA and, in doing so breached any or all of:
  - a) Principles 2, 4 and 5 of the SRA Principles 2019.
  - b) Paragraphs 1.4, 7.3 and 7.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019.
4. Between October 2021 and December 2022, he failed to ensure that reconciliations were completed at least every five weeks and, in doing so breached any or all of:
  - (i) Rule 8.3 of the SRA Accounts Rules 2019.
  - (ii) Paragraph 9.2 of the SRA Code of Conduct for Firms 2019 (specifically, in relation to the period from 8 December 2021 until 5 December 2022).
5. The Respondent, Mr McKnight admitted all the allegations, including that his conduct was dishonest.

## **Executive Summary**

6. The Respondent admitted all the allegations. The Tribunal found all the allegations proved and was satisfied on the balance of probabilities that the Respondent’s admissions were properly made. Accordingly, the Tribunal found that the Respondent had breached Principles 2, 4 and 5 of the SRA Principles 2019, Rules 5.1, 6.1 and 8.3 SRA Account Rules 2019, paragraphs 1.4, 4.2, 7.3 and 7.4 of the SRA Code of Conduct

Code of Conduct for Solicitors, RELs and RFLs 2019 as well as paragraph 9.2 of the SRA Code of Conduct for Firms 2019.

### **Sanction**

7. Given the seriousness of the Respondent's misconduct, the only appropriate and proportionate sanction was to strike the Respondent, Mr Dominic Leon Macknight off the Roll of Solicitors. The Tribunal did not find that there were any exceptional circumstances to justify a lesser sanction. No order of costs was made.

### **Documents**

8. The Tribunal considered all of the documents in the case which included but were not limited to:

#### Applicant

- Rule 12 Statement, dated 17 January 2024 and Exhibit MM1
- Applicant's Statement of Costs, dated 17 January 2024 and 24 May 2024

#### Respondent

- Respondent's Response Statement, dated 16 February 2024
- Witness Statement of Mr Dominic Leon Macknight, dated 20 April 2024 and Exhibit DM1
- Witness Statement of Mr Dominic Leon Macknight, dated 13 May 2024, regarding the Respondent's financial position.

### **Preliminary Matters**

9. Whilst the Respondent had indicated in his Response to the Applicant's Rule 12 Statement that he intended to rely upon a Mitigation Statement, the Respondent confirmed at the start of the Hearing that he no longer asserted that he should not be struck off the roll of solicitors due to exceptional circumstances. The Respondent further confirmed that he admitted all the allegations as pleaded by the Applicant.

### **Factual Background**

10. The Respondent is a solicitor having been admitted to the Roll of Solicitors on 1 April 2016. The Respondent became a Director of the Firm on 6 October 2021 and its sole manager, following the resignation of Mr Abid Khan (a former Director and sole shareholder), on 22 November 2021. The Respondent became the Firm's sole shareholder on 18 November 2021.
11. The Firm was a company limited by shares which was incorporated on 12 July 2011. It was authorised as a recognised body on 1 August 2014. The Firm had one office, which it has now vacated, located at Suite 314 Daisyfield Business Centre, Blackburn, BB1 3BL. Its main area of work was personal injury.

12. The Respondent was the Firm's Compliance Officer for Legal Practice (COLP) and Compliance Officer for Finance and Administration (COFA). The Respondent held these roles from 8 December 2021 until 5 December 2022 when the SRA intervened into the Firm.
13. The Respondent had held a practising certificate for the practice year 2021 to 2022 free from conditions prior to the Intervention by the SRA into the Firm. Upon Intervention into the Firm by the SRA, the Respondent's practising certificate was suspended. The Respondent does not currently hold a practising certificate.
14. The SRA received two reports about the Respondent and the Firm in July and August 2022 respectively. Both reports raised concerns about the Respondent's and Firm's responsiveness to their client issues.
15. Following Notice being given to the Firm, a Forensic investigation was commenced on 20 October 2022 at the Firm's offices.
16. On 26 October 2022, the Respondent and the Firm were served with a Production Notice ('the Production Notice') pursuant to section 44B of the Solicitors Act 1974 ('the Act') via email and post. The Production Notice required information and documents to be produced to the Forensic Investigation Officer ('FIO') by 2 November 2022 at 10:30am. The Respondent provided documentation in response to the Notice to Miss Taylor on 2 November 2022.
17. On the same day, 26 October 2022, the Respondent sent an email to the SRA confirming that he intended to close the Firm because of financial difficulties, a downturn in personal injury work and his father's ill health.
18. The FIO completed an interim report of her findings on 11 November 2022 [B11 – 21]. In summary, the findings of that interim report indicated the following:
  - 18.1. The Respondent admitted that on 14 June 2022 and 1 July 2022 he transferred two payments of £2,500.00 and £2,100.00, totalling £4,600.00, from client account to office account to reduce the debit balance in the Firm's office bank account;
  - 18.2. Between 30 November 2021 and 21 September 2022, the Respondent had authorised transfers totalling £54,523.32 from client to office account. The Respondent had accounted for £38,215.32 of the transfers but not the balance of £16,308.00, which created a cash shortage. He had not returned that sum to client account;
  - 18.3. During an initial interview on 20 October 2022, the Respondent misled the FIO about issues relating to the Firm's finances, his operation of client account and his compliance with the SRA Accounts Rules. During a meeting with the FIO on 2 November 2022, the Respondent admitted that what he told the FIO about those matters on 20 October 2022 was untrue; and
  - 18.4. The Firm had not completed compliant client account reconciliations since 31 August 2021. As a consequence, the FIO was unable to establish whether the Firm held sufficient funds in the client bank account to meet its liabilities to clients.
19. Following the FIO interim report, on 23 November 2022, the SRA served upon the Respondent a Notice Recommending Intervention into the Firm. The Respondent had

the opportunity to submit representations against the Notice by 4pm on 25 November 2022. The SRA did not receive any representations from the Respondent.

20. On 1 December 2022, the Adjudication Panel decided to intervene into the Firm on the grounds of suspected dishonesty and failure to comply with SRA Rules. The Respondent's practising certificate was suspended as a result of that decision.
21. Following the Intervention, the FIO completed her investigation and produced a final report on 26 January 2023. The Interim and final report forms the basis of the Applicant's allegations, which are detailed below.

### **Witnesses**

22. No witnesses were heard in the Hearing. The Respondent admitted all the allegations against him.

### **Findings of Fact and Law**

23. The Applicant was required to prove the allegations beyond balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Respondent's right to a fair trial and to respect for their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
24. **Allegation 1 - Between November 2021 and September 2022, the Respondent caused, or allowed to be caused, improper withdrawals from the Firm's client account into the office account which led to a minimum cash shortage of £16,308.00, and in doing so, breached any or all of:**
  - (i) **Principles 2, 4 and 5 of the SRA Principles 2019.**
  - (ii) **Rule 5.1 of the SRA Accounts Rules 2019.**
  - (iii) **Paragraph 4.2 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019.**

### **The Applicant's Case – Allegation 1**

- 24.1 Between November 2021 and September 2022, the Respondent authorised 10 payments totalling £16,308.00 from the Firm's client account to the office account which he was unable to account for. Most of these transfers were unexplained and the funds were not allocated to client files. This created a cash shortage which had not been replaced as at the date of the final FIR and as at the date of this Statement.
- 24.2 The Firm operated online banking which could only be accessed by the Respondent. Cheque payments could be authorised by the Respondent with his signature. The Respondent also confirmed during a meeting with the FIO on 2 November 2022 that he had authorised the client to office transfers.
- 24.3 The Respondent admitted to the FIO during a meeting on 2 November 2022 that two payments of £2,500.00 on 14 June 2022 and £2,100.00 on 1 July 2022 were not related to any specific client matters. At the time of the transfers, the Firm's office bank account

was in debit on 14 June 2022 by £30,921.59 and, on 1 July 2022, by £30,639.24. The reasons for the two withdrawals totalling £4,600.00 have been explained by the Respondent, which was that they did not relate to any client matters and the withdrawals were to ensure the debit balance on the Firm's office bank account did not exceed £30,000.00 because the Firm did not have an authorised overdraft facility. The Respondent also admitted that the two transfers were improperly made and he knew at the time he transferred the money that it did not belong to the Firm.

- 24.4 The FIO agreed with the Respondent on 2 November 2022 that by 7 November 2022 he would review the unallocated client to office transfers to see if they could be allocated to specific clients. On 9 November 2022, the FIO spoke with the Respondent and asked if he had been able to allocate the £16,308.00 to specific clients. The Respondent stated that he had not been able to do so, as he could not find a client matter listing to be able to undertake the exercise.

*Alleged dishonesty (Principle 4 of the SRA Principles 2019)*

- 24.5 The Applicant alleged that Respondent's conduct in authorising improper withdrawals from the Firm's client account into the office account was dishonest and in breach of Principle 4 of the SRA Principles. The Applicant relied upon the test of dishonesty stated by the Supreme Court in *Ivey v Genting Casinos* [2017] UKSC 67, namely that the person has acted dishonestly by the ordinary standards of reasonable and honest people.
- 24.6 The Applicant asserted that when the Respondent transferred money belonging to clients within the client account into the Firm's office account, the Respondent knew or believed the following matters:
- that he made improper transfers from client account to office account. He transferred £2,500.00 on 14 June 2022 and £2,100.00 on 1 July 2022 to cover office outgoings and to keep the debit balance in office account under £30,000.00. He told the FIO that when he transferred the money from client to office account he knew it did not belong to the Firm. He has, to date, not replaced the money he admitted he improperly transferred;
  - that he transferred money which did not relate to any specific client matters and did not raise invoices in respect of those client matters or deliver bills associated with those matters;
  - made admissions to the FIO on 2 November 2022 saying 'I knew at the time when I transferred the money it did not belong to the firm. I've been winging and praying it – I can see that I am a risk to the profession'; and
  - that the transfers he authorised were not in accordance with the permitted circumstances set out in Rule 5.1 of the SRA Accounts Rules.
- 24.7 The Applicant asserted that that ordinary and decent people would regard the intentional taking of client money from the client account for an illegitimate or nefarious reason, and transferring it into the Firm's office and business expenses account as dishonest. This is because ordinary people would expect a Firm and

solicitors to safeguard client money, and not to misuse it for their own purposes, particularly without the client's knowledge and consent.

- 24.8 Moreover, the Applicant asserted that the Firm was not entitled to use the funds because the withdrawals knowingly undertaken by the Respondent did not accord with any of the permitted circumstances as set out in Rule 4.3 of the SRA Account Rules requiring client money to be kept separate. Accordingly, in the Applicant's view, the Respondent had no valid reason for doing so and the conduct was dishonest.

*Alleged failure to uphold public trust and confidence (Principle 2 of the SRA Principles 2019)*

- 24.9 At all relevant times, the Respondent was the owner, director, COLP, COFA and a solicitor at the Firm. The Respondent transferred money from the Firm's client account to the Firm's office account. The transfers that the Respondent had authorised were not allocated to specific client files. The Respondent admitted that he could not account for the transfers totalling £16,308.00. Two transfers totalling £4,600 did not relate to any client matters. The transfers were made to ensure that the debit balance on the firm's office bank account did not exceed £30,000.00. The transfers were therefore improper because the Respondent's firm was not entitled to those monies. The Respondent had not raised invoices in respect of the amounts transferred and therefore could not properly satisfy himself that his firm was entitled to those monies. As at the date of the final FIR, the Respondent had not replaced the shortage on client account.
- 24.10 The Applicant relied on Solicitors Disciplinary Tribunal's judgment in *Solicitors Regulation Authority v Cabeer Ahmed*, Case No 12020-2019, 2019, where it was held that client money is 'sacrosanct', and losses have 'severely and incalculably undermined public trust [...] in the profession.' The Applicant asserted that Firms and solicitors hold considerable trust especially in financial matters. Clients entrust money with a Firm or a solicitor for case progression or safekeeping of damages. It is crucial that client funds are held distinct and are only withdrawn when permitted to do so in accordance with SRA Account Rules. Both the public and the legal profession expect adherence to these Rules.
- 24.11 According to the Applicant, the public and the profession would not expect client money to be paid into office account to pay for any office or business expenses, or to reduce a debit on office account. Using client money for this purpose is a misuse of client money. In the Applicant's view, this is conduct that damages trust in the profession. The trust that the public places in solicitors and in the provision of legal services provided by authorised persons depends upon the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth.
- 24.12 Solicitors are required to discharge their professional duties with integrity, probity and trustworthiness. The public interest demands that solicitors always conduct their business according to the rules with scrupulous honesty.
- 24.13 Client account is sacrosanct and solicitors should ensure that client money and assets are safeguarded. Therefore, the Applicant alleged that in causing and allowing improper withdrawals to be made from the firm's client account to office account the Respondent breached Principle 2.

*Alleged lack of integrity (Principle 5 of the SRA Principles 2019)*

- 24.14 Relying on *Wingate and Evans v SRA* and *SRA v Malins* [2018] EWCA Civ 366, the Applicant alleged that the Respondent failed to act with integrity in breach of Principle 5 of the SRA Principles 2019.
- 24.15 The Applicant asserted that the Respondent transferred monies that did not belong to the Firm. In a meeting with the FIO on 2 November 2022, the Respondent stated he believed that the monies transferred were due to costs to the Firm from when the Respondent took over the Firm. The Respondent failed to raise invoices and deliver those invoices associated with such costs. The FIO reports that the Respondent stated, ‘don’t think there is an answer other than there isn’t a reason behind – just did not put the paperwork in place’. In addition, the Respondent made admissions to the FIO that he knew two transfers authorised by him did not belong to the Firm when he transferred the funds.
- 24.16 The Applicant asserted that the Respondent’s actions in taking money that did not belong to the Firm from the client account and transferring it into the Firm’s office account is not in keeping with the higher standards expected of Firms and solicitors. In the Applicant’s view, a solicitor acting with integrity would ensure that any transfer of funds was in accordance with the permitted circumstances in the SRA Accounts Rules and that they would have checked they were entitled to the monies transferred before making those transfers.
- 24.17 The Applicant further asserted that had the Respondent genuinely believed that the monies which he transferred were costs due to his firm, he would have sent invoices or other written notification of costs before authorising the transfers. The public and the profession rightly expect that solicitors uphold professional standards, particularly when those standards relate to protecting client money because of how important client money is to the provision of legal services.

*Alleged breaches of rule 5.1 of the SRA Account Rules 2019 and paragraph 4.2 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019*

- 24.18 The Applicant asserted that between November 2021 and September 2022, client to office transfers were authorised by the Respondent. In that period, the Respondent authorised 10 payments totalling £16,308.00 from the Firm’s client account to the office account to which his firm was not entitled. This created a shortage on client account and as the date of the FIR, the Respondent had not replaced the funds. Most of these transfers were unexplained and the funds were not allocated to client files.
- 24.19 The reasons for the two withdrawals totalling £4,600.00 have been explained by the Respondent, which was that they did not relate to any client matters and were to ensure the office account’s overdraft did not exceed an amount of £30,000.00.
- 24.20 Rule 5.1 of the SRA Account Rules 2019 sets out the circumstances in which withdrawals can be made, namely: (a) for the purpose for which it is being held; (b) following receipt of instructions from the client, or the third party for whom the money is held; or (c) on the SRA’s prior written authorisation or in prescribed circumstances.



- 24.21 The Respondent admitted in a conversation with the FIO on 2 November 2022 that he knew at the time of the two transfers on 14 June 2022 and 1 July 2022 that he was transferring money that did not belong to the Firm. These transfers were therefore not in accordance with the circumstances permitted by Rule 5.1, in particular the Respondent did not have his clients' or third-party instructions or prior authorisation from the SRA.
- 24.22 The Applicant further asserted that in improperly causing or allowing withdrawals to be made from client account, the Respondent failed to safeguard money entrusted to him and his Firm by his clients in breach of Rule 4.2 of the SRA Code of Conduct for Solicitors, RELs and RFLs.

#### The Respondent's Case – Allegation 1

- 24.23 The Respondent admitted Allegation 1 in its entirety.
25. **Allegation 2 – the Respondent failed to promptly replace the £16,308.00 minimum cash shortage and, in doing so breached any or all of:**
- (i) **Principle 2 of the SRA Principles 2019.**
  - (ii) **Rule 6.1 of the SRA Accounts Rules 2019.**
  - (iii) **Paragraph 4.2 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019.**

#### The Applicant's Case- Allegation 2

- 25.1 The Respondent failed to promptly replace the £16,308.00 minimum cash shortage he caused by the improper transfer of client money from the Firm's client account to the office account.
- 25.2 In admissions to the FIO on 2 November 2022, the Respondent was aware at the time of 14 June 2022 and 1 July 2022 that the client money he transferred on those occasions did not belong to the Firm. The FIO noted from that conversation that the Respondent said 'I knew at the time when I transferred the money it did not belong to the firm. I've been winging and praying it – I can see that I am a risk to the profession.'
- 25.3 In addition, the FIO alerted the Respondent to the need to replace the funds during her inspection, for example on 9 and 10 November 2022. In an email to the FIO dated 11 November 2022, the Respondent said he was looking into funding to replace the shortfall. The £16,308.00 minimum cash shortage was not replaced by the time of the Intervention on 5 December 2022 and has not been replaced as at the date of this statement.

#### *Alleged failure to uphold public trust and confidence (Principle 2 of the SRA Principles 2019)*

- 25.4 The Applicant asserted that the public trust that solicitors and law Firms understand how to handle client money, and that they will act promptly to rectify the position should things go wrong.

25.5 In the Applicant's view, a solicitor who not only improperly transfers client money but who then fails to replace it undermines the trust that the public places in solicitors and the legal profession to be good custodians of their funds. The Respondent was alerted to the need to replace the funds on several occasions by the FIO and failed to do.

*Alleged breach of rule 6.1 of the SRA Accounts Rules 2019*

25.6 Rule 6.1 of the SRA Account Rules 2019 requires a solicitor to correct any breaches of the SRA Accounts Rules promptly upon discovery. It also requires a solicitor to immediately replace money improperly withdrawn from a client account.

25.7 The Respondent admitted to the FIO on 2 November 2022 that he could not account for the transfers totalling £16,308.00. The Respondent also admitted that the transfers of funds totalling £4,600.00 on 14 June 2022 and 1 July 2022 did not relate to any client matters and were made to ensure that the debit balance on the firm's office bank account did not exceed £30,000.00.

25.8 The Applicant asserted that the transfers and withdrawals from client account were therefore improper as those funds did not belong to the Firm. The Respondent should have replaced client money immediately and remedied this breach of the Account Rules promptly, but he had failed to do so. The Respondent was alerted to the need to replace the minimum cash shortage of £16,308.00 on several occasions by the FIO and failed to do. The Respondent further failed to replace the minimum cash shortage by the time of the Intervention and as at the date of this statement.

*Alleged breach of paragraph 4.2 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019*

25.9 Solicitors are required to safeguard money and assets entrusted to them by clients and others. A solicitor safeguarding client money would, when they realised that funds had been improperly withdrawn from the client account, replace those funds promptly. The Respondent failed to do so. By improperly withdrawing client funds and then failing to replace those funds, the Respondent failed to safeguard client money and assets.

The Respondent's Case- Allegation 2

25.10 The Respondent admitted Allegation 2 in its entirety.

26. **Allegation 3 - Between October 2022 and July 2023, the Respondent provided the SRA with inaccurate and/or misleading explanations and subsequently failed to cooperate with the SRA and, in doing so breached any or all of:**

- a) **Principles 2, 4 and 5 of the SRA Principles 2019.**
- b) **Paragraphs 1.4, 7.3 and 7.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019.**

The Applicant's Case – Allegation 3

- 26.1 The Applicant alleged that between October 2022 and up to the service of the Notice in July 2023, the Respondent provided the SRA with inaccurate and/or misleading explanations. The Applicant further alleged that the Respondent also failed to cooperate with the SRA.
- 26.2 The Respondent attended an initial interview with the FIO on 20 October 2022 [B35-41]. During the interview, the Respondent provided a number of answers which he subsequently admitted were untrue and therefore misleading.
- 26.3 The FIO scheduled an interview with the Respondent on 25 November 2022. The Respondent had not confirmed to the FIO that he would attend that interview. However, this interview was later postponed as representations in response to the Notice Recommending Intervention were due on the same date. The FIO postponed the interview until 30 November 2022 and asked the Respondent on 28 November 2022 to confirm his attendance. The Respondent failed to respond to that either.
- 26.4 On 3 January 2023, the FIO wrote to the Respondent again inviting him to a final interview during the week commencing 9 January 2023. The FIO asked for a reply by 6 January 2023. The Respondent failed to respond.
- 26.5 Even upon service of the Notice Recommending Referral of the Respondent's conduct to the Solicitors Disciplinary Tribunal in July 2023, the Respondent still had not agreed to attend a final interview, responded to the FIO or provided the SRA with any alternative dates to attend a final interview.
- 26.6 The SRA intervened into the Firm on 5 December 2022.
- 26.7 On 6 January 2023, the SRA's external Intervention Agents sent an email to the FIO in which they explained that the Respondent had provided usernames and passwords to access the accounting software 'Leap' system which did not work. The Intervention Agents requested the correct passwords on 15 December 2022 but did not receive a response, resulting in them approaching Leap directly to obtain them. The Intervention Agents also informed the FIO in the email that they had attempted to contact the Respondent by telephone and email.

*Alleged dishonesty (Principle 4 of the SRA Principles 2019)*

- 26.8 The Applicant repeated the test for dishonesty on which it relied in relation to Allegation 1. The Respondent was initially interviewed by the FIO on 20 October 2022. The Respondent was asked direct and specific questions leaving no room for ambiguity. When responding to the questions, as exemplified in the above table at paragraph 47, the Respondent acted dishonestly by the standards of ordinary decent people. As to the Respondent's knowledge and belief of the facts:
- 26.8.1 During an interview with the FIO on 20 October 2022, the Respondent provided inaccurate and/or misleading information in response to questions from the FIO;

- 26.8.2 He told the FIO he did not have any judgment debts against him. This was misleading and lacked candour because the Firm had five judgment debts against it which he did not reveal;
- 26.8.3 He told the FIO that the Firm had a bookkeeper who came in to reconcile the books and records when he knew this was not true as the bookkeeper had resigned;
- 26.8.4 He told the FIO that the Firm's books were up to date when this was not true because the books had not been done since he took over the Firm. He therefore deliberately misled the FIO;
- 26.8.5 He told the FIO that there were no debit balances on client account when this was not true because he knew of the transfer of £4,600.00 of client money to office account which the Firm was not entitled to;
- 26.8.6 He told the FIO that he reconciled client account monthly and that the last date of the client account reconciliation was 31 August 2022 when this was not true because the client account had not been reconciled since 31 August 2021; and
- 26.8.7 He told the FIO that the clients are reconciled monthly when this was not true; and therefore, the information he provided to the FIO was inaccurate and misleading.
- 26.9 Accordingly, the Applicant asserted that the Respondent was not open and honest with the FIO. Answering questions honestly was likely to be detrimental to the Respondent because it would have shown that he and his firm were in breach of the SRA Accounts Rules.
- 26.10 In the Applicant's view, ordinary and decent people would regard providing deliberately inaccurate information and answers to one's regulator as dishonest. The Respondent admitted to the SRA on 1 November 2022 that he lied about the books of accounts being up to date because 'he thought he could ride it out' and stated on 2 November 2022 that he misled the SRA because he panicked.

*Alleged failure to uphold public trust and confidence (Principle 2 of the SRA Principles 2019)*

- 26.11 The Applicant asserted that the public and the profession expect that solicitors will comply with their regulatory requirements and provide full and accurate information and explanations to their Regulator. Any failure to do so could damage public trust and confidence in the profession, legal services and the regulatory process.
- 26.12 The Respondent was on notice of, but still failed to co-operate with, the SRA investigation into his firm. He did not provide the required information and passwords to the Intervention Agents nor did he co-operate with the FIO's inspection of the firm. The Respondent provided multiple misleading responses to questions which the FIO reasonably put to him.

26.13 The trust that the public places in solicitors and in the provision of legal services provided by authorised persons depends upon the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. Solicitors are required to discharge their professional duties with integrity, probity and trustworthiness and in providing inaccurate and or misleading explanations to the FIO and failing to co-operate with the SRA's Intervention Agents the Respondent failed to act in a way that upheld trust and confidence in the profession.

*Alleged lack of integrity (Principle 5 of the SRA Principles 2019)*

26.14 The Applicant repeated its submissions in relation to Allegation 1 regarding the test for determining lack of integrity. The Applicant asserted the Respondent's conduct in providing inaccurate and/or misleading explanations to the FIO and failing to co-operate with the SRA's Intervention Agents is not conduct that is consistent with the higher standards society expects from professional persons and which the profession expects from its members.

26.15 In the Applicant's view, a solicitor acting with integrity would cooperate with their regulator by giving full and honest explanations. A solicitor acting with integrity would also co-operate with the SRA's Intervention Agents instructed to act on the SRA's behalf. In failing to do so, the Respondent failed to act with integrity.

*Alleged breaches of paragraphs 1.4, 7.3 and 7.4 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019*

26.16 Paragraph 1.4 requires a solicitor not to mislead clients, the courts or others. Paragraph 7.4 requires a solicitor to promptly respond to the SRA.

26.17 The Respondent provided a number of inaccurate and / or misleading responses to the Applicant. In response to a question asked by the FIO about why he had lied about the books of accounts being up to date, the Respondent stated that 'he thought he could ride it out.'

26.18 The Respondent further stated in a conversation on 2 November 2022 with the FIO that he agreed that he misled the SRA, and that he had panicked.

26.19 The Respondent also breached paragraph 7.3 because he failed to cooperate with the FIO in responding to a request for a final interview and failed to cooperate with the Intervention Agents instructed by the SRA. The Intervention Agents were unable to gain access to the accounting software used by the Respondent due to the incorrect password information that he provided to them. The Respondent misled the Intervention Agents in doing so.

The Respondent's Case -Allegation 3

26.20 The Respondent admitted Allegation 3 in its entirety.

27. **Allegation 4 - Between October 2021 and December 2022, the Respondent failed to ensure that reconciliations were completed at least every five weeks and, in doing so breached any or all of:**

- a) **Rule 8.3 of the SRA Accounts Rules 2019.**
- b) **Paragraph 9.2 of the SRA Code of Conduct for Firms 2019 (specifically, in relation to the period from 8 December 2021 until 5 December 2022).**

#### The Applicant's Case - Allegation 4

- 27.1 When the Respondent was initially interviewed by the FIO on 20 October 2022, he confirmed that the last client account reconciliation took place on 31 August 2022 and that these were being done monthly.
- 27.2 Subsequently, the Respondent confirmed on 1 November 2022 that a reconciliation had not taken place since August 2021. In the telephone note recorded by the FIO on 1 November 2022, the FIO wrote 'I asked why he had lied and said the books of account were up to date and DM said, 'he thought he could ride it out'. No client matter listing was provided to verify the figures shown on the reconciliation report, and the Respondent could not these provide to the FIO when asked.
- 27.3 The FIO summarised in her final report that as no books of account were made available, she could not establish whether the firm held sufficient funds in the client account to meet liabilities to clients at the extraction date of 31 August 2022.
- 27.4 Reconciliations had not taken place between August 2021 and up to the date of the Intervention in December 2022. The Respondent was obliged to ensure reconciliations took place after he had taken on the role of Director of the Firm in October 2021 as well as being the COFA from December 2021.

#### *Alleged breach of Rule 8.3 of the SRA Accounts Rules 2019*

- 27.5 Rule 8.3 requires solicitors to complete, at least every five weeks, for all client accounts held or operated by them, a reconciliation of the bank or building society statement balance with the cash book balance and the client ledger total. The reconciliation must also be signed off the COFA or a manager of firm and any differences should be promptly investigated and resolved. The Respondent confirmed to the FIO that reconciliations had not taken place since August 2021.
- 27.6 According to Companies House records, the Respondent became a Director of the firm on 6 October 2021. The Respondent was therefore jointly responsible with the other Directors of ensuring compliance with the SRA Accounts Rules.
- 27.7 The Respondent became the sole manager on 22 November 2021 and the Firm's sole shareholder on 18 November 2021. From this point onwards, the Respondent was wholly responsible for ensuring that the Firm complied with the SRA Accounts Rules. The Respondent also took over as COFA on 8 December 2021.
- 27.8 By the time of the Respondent's admissions to FIO on 1 November 2022, the Respondent had not completed any reconciliations for approximately 13 months while Director, and 11 months while COFA. The Respondent's duty to ensure that reconciliations were carried out extended to both his roles as a manager and the COFA of the Firm and he therefore breached Rule 8.3.

*Alleged breach of Paragraph 9.2 of the SRA Code of Conduct for Firms 2019*

- 27.9 The Respondent admitted that reconciliations were not completed at least every five weeks. As a COFA, paragraph 9.2 required the Respondent to take all reasonable steps to ensure that his firm complied with any obligations imposed upon it under the SRA Accounts Rules. The Respondent failed to take reasonable steps as COFA to ensure that both he and his Firm complied with the obligations imposed under the SRA Accounts Rules.

The Respondent's Case -Allegation 4

- 27.10 The Respondent admitted Allegation 4 in its entirety.

**28. The Tribunal's Findings on Allegations 1, 2, 3 and 4**

- 28.1 Having reviewed all the material before it, the Tribunal found allegations 1, 2, 3 and 4 proved on the facts and evidence. The Tribunal was further satisfied on the balance of probabilities that the Respondent's admissions, including the admission of dishonesty, were properly made.
- 28.2 Accordingly, the Tribunal found that the Respondent had breached Principles 2, 4 and 5 of the SRA Principles 2019, Rules 5.1, 6.1 and 8.3 SRA Account Rules 2019, paragraphs 1.4, 4.2, 7.3 and 7.4 of the SRA Code of Conduct Code of Conduct for Solicitors, RELs and RFLs 2019 as well as paragraph 9.2 of the SRA Code of Conduct for Firms 2019.

**Previous Disciplinary Matters**

29. There were no previous disciplinary matters against the Respondent.

**Sanction**

30. The Tribunal considered the Solicitors Disciplinary Tribunal's Guidance Note on Sanction (10<sup>th</sup> Edition /June 2022) (the "Sanctions Guidance"). The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction, the Tribunal's role was to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances. In determining the seriousness of the misconduct, the Tribunal was to consider the Respondent's culpability and harm identified together with the aggravating and mitigating factors that existed.
31. In assessing the Respondent's culpability, the Tribunal determined that the Respondent's misconduct had been motivated by his and the Firm's financial difficulties. In the Tribunal's view, the Respondent's misconduct has been planned and deliberate and had been repeated over a considerable period of time, from November 2021 to September 2022 in relation to Allegation 1 and from October 2022 and July 2023 in relation to Allegation 3. The Respondent had further had sole and direct control of the withdrawals from the Firm's client account into the office account, which among other circumstances gave rise to his misconduct. With 5 year's post-

qualification experience, the Respondent had been experienced enough to be running the Firm on his own.

32. The Tribunal further considered the fact that the Respondent had also deliberately misled the regulator and failed to cooperate with the regulator as relevant in assessing the Respondent's culpability (see, *Solicitors Regulation Authority v Spence* [2012] EWHC 2977 (Admin)).
33. The Tribunal concluded that the Respondent was highly culpable in this matter.
34. In addition, the Tribunal found that the Respondent's dishonesty had caused harm to the reputation of the profession as per Coulson J in *Solicitors Regulation Authority v Sharma* [2010] EWHC 2022 Admin:

*"34. There is harm to the public every time that a solicitor behaves dishonestly. It is in the public interest to ensure that, as it was put in Bolton, a solicitor can be "trusted to the ends of the earth"."*

35. In the Tribunal's view, the Respondent had caused serious harm to the Firm's clients and the reputation of the profession by repeatedly taking client money from the client account and transferring it to the office account and not replacing the money taken from the client account. Moreover, the Tribunal considered that the harm caused by the Respondent's misconduct was aggravated by the fact that the Respondent's conduct had been deliberate and dishonest.
36. By admitting the alleged misconduct, the Respondent had shown some level of genuine insight, but the full admission had been made at very late stage of the proceedings, at the Hearing. The Tribunal concluded that there were no mitigating factors to be taken into account in determining the sanction.
37. The Tribunal noted that the Sanctions Guidance states that: "The most serious misconduct involves dishonesty, whether or not leading to criminal proceedings and criminal penalties. A finding that an allegation of dishonesty has been proved will almost invariably lead to striking off, save in exceptional circumstances (see, *Solicitors Regulation Authority v Sharma* [2010] EWHC 2022 (Admin))."
38. In *Sharma* [2010] EWHC 2022 (Admin) at [13] Coulson J summarised the consequences of a finding of dishonesty by the Tribunal against a solicitor as follows:

*"(a) Save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the Roll ... That is the normal and necessary penalty in cases of dishonesty..."*

*(b) There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances ...*

*(c) In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself, whether it was momentary ... or over a lengthy period of time ... whether it was a benefit to the solicitor ... and whether it had an adverse effect on others..."*



39. In considering whether the circumstances in this case were exceptional, the Tribunal had regard to *Solicitors Regulation Authority v James* [2018] EWHC 3058 (Admin) at [101], where Flaux LJ set out the basis of which question of exceptional circumstances was assessed:

*“First, although it is well-established that what may amount to exceptional circumstances is in no sense prescribed and depends upon the various factors and circumstances of each individual case, it is clear from the decisions in Sharma, Imran and Shaw, that the most significant factor carrying most weight and which must therefore be the primary focus in the evaluation is the nature and extent of the dishonesty, in other words the exceptional circumstances must relate in some way to the dishonesty.”*

40. Whilst the Tribunal noted that the Respondent had experienced difficult personal circumstances, those circumstances did not relate to the Respondent’s dishonest conduct and, thus, did not amount to exceptional circumstances within the meaning of ‘*James* [2018] EWHC 3058 (Admin).
41. The Tribunal determined that in light of the Respondent’s high level of culpability, serious harm caused by the Respondent’s misconduct and admitted dishonesty, the only appropriate and proportionate sanction was to strike the Respondent, Mr Macknight off the Roll of Solicitors. The Tribunal did not find that there were any exceptional circumstances such that the Respondent’s striking off the Roll would be disproportionate. The Tribunal considered that strike off will have an appropriate effect on public confidence in the legal profession and adequately reflects serious misconduct.

### **Costs**

42. Mr Miah on behalf of the Applicant applied for costs in the sum of £9,330.10, which equated to a notional hourly rate of £130. The Tribunal agreed that this sum was proportionate.
43. The Respondent had submitted a witness statement, dated 13 May 2024, in which he detailed his financial position, including his available funds, debts and current earnings. The witness statement further attached copies of the Respondent’s bank account statements, personal financial statement as well as evidence of debts owed by the Respondent. The witness statement also attached details of the Respondent’s dispute with his stepmother arising from his claim for a potential equity share in a property owned by his stepmother.
44. Having carefully considered the Respondent’s witness statement of 13 May 2024 and the Respondent’s oral submissions, the Tribunal concluded that the Respondent had insufficient financial means and inability to pay for the Applicant’s costs. Whilst the Respondent had referred to the property dispute with his stepmother, at the time of the proceedings the property in question was not a realisable asset. Therefore, the Tribunal decided to make no order as to costs.

**Statement of Full Order**

45. The Tribunal ORDERED that the Respondent, DOMINIC LEON MACKNIGHT, solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that there be no Order for costs.

Dated this 4<sup>th</sup> day of July 2024  
On behalf of the Tribunal

*L Boyce*

L Boyce  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**4 JULY 2024**