SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12565-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

Respondent

NICHOLAS GILES COLLINS

Before:

Ms A Banks (in the chair)
Mr M N. Millin
Ms L Fox

Date of Hearing: 11 April 2024

Appearances

There were no appearances as the matter was dealt with on the papers.

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against Mr Collins made by the Solicitors Regulation Authority ("SRA") were that whilst practising as a solicitor at Russell Jones and Walker and subsequently at Slater & Gordon UK Limited, he:

1.1 Between March 2004 and April 2021, misled his client EH about the progress of her personal injury claim which he was conducting on her behalf. He did this by making false and misleading statements to her including all or any of those set out in a schedule contained in a bundle accompanying this Rule 12 statement and included but were not limited to statements that/or to the effect that:

1.1.1 He had advanced her compensation claim for personal injury against her former employer, the Inland Revenue.

1.1.2 He instructed barristers, Nicholas Sproull and subsequently Roger Hiorns to arbitrate on a compensation figure with the Inland Revenue.

1.1.3 A finalised adjudicated sum of £360,136.10 had been awarded to EH for compensation by Roger Hiorns in respect of her claim and that there was a Court Judgment/Order for that amount made on 14 March 2013.

1.1.4 That the Inland Revenue had appealed against the interest element of the compensation award and the appeal was heard at a Court hearing on 29 September 2016 and was ultimately unsuccessful.

1.1.5 That District Judge Carson had determined the interest award and HHJ Williams determined the appeal.

1.1.6 Bailiffs had been instructed in respect of a judgment debt against HMRC following an award of damages and interest.

1.1.7 He sent a letter dated 24 October 2017 to the Complaints Officer at High Court Enforcement Group in Swansea because of purported delays in enforcement of the Judgment.

1.1.8 An application for a third-party debt order had been submitted to Cardiff County Court on 23 October 2017.

1.1.9 There was a hearing at Cardiff County Court on 14 February 2018 in respect of an application for a third-party debt order and/or in respect of the HMRC's appeal regarding jurisdiction of the bailiffs;

1.1.10 Susan Davies was the barrister from LPC Law that represented EH at the County Court hearing on 14 February 2018.

1.1.11 There was a further court hearing in February 2019 to consider HMRC's appeal/objections.

1.1.12 That a third-party debt order (the equivalent of a garnishee order) had been made by the Court on or around October 2019.
And in doing so, in so far as such conduct took place before 1 July 2007, he acted in breach one or more of Rules 1(a), (c) and (d) of the Solicitors' Practice Rules 1990 ("SPR 90").

Insofar as such conduct took place between 1 July 2007 and 5 October 2011, he acted in breach of one or more of Rules 1.02, 1.04 and 1.06 of the Solicitors' Code of Conduct 2007 ("SCC 07").

Insofar as such conduct took place on or after 6 October 2011 but before 25 November 2019, he acted in beach of one or more of Principles 2, 4 and 6 of the SRA Principles 2011 ("SRA P11").

Insofar as such conduct took place on or after 25 November 2019, he acted in breach of one or more of Principles 2, 4, 5 and 7 of the SRA Principles 2019 ("SRA P19") and/or Paragraph 1.4, of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019 ("CCSRR19").

1.2 Between 2005 and March 2019, he provided EH with documents that he prepared in order to support the false and misleading statements he made to her about her personal injury claim including any or all of the following:

1.2.1 Submissions in March 2006, October 2009 and January 2014 and instructions in October 2009 to barristers purportedly instructed to arbitrate a compensation figure with the Inland Revenue/HMRC;

1.2.2 His notes taken of a court decision handed down at a hearing on 25 May 2018 and of a Court hearing on 14 February 2019;

1.2.3 A letter dated 24 October 2017 to a Complaints Officer at the High Court Enforcement Group in Swansea about purported delays in enforcement of the Judgment.

1.2.4 A letter and an application for a third-party debt order purportedly sent to the Cardiff Country Court on 23 October 2017.

And in doing so, in so far as such conduct took place before 1 July 2007, he acted in breach one or more of Rules 1(a), (c) and (d) of the SPR 90.

Insofar as such conduct took place between 1 July 2007 and 5 October 2011, he acted in breach of one or more of Rules 1.02, 1.04 and 1.06 of the SCC 07.

Insofar as such conduct took place on or after 6 October 2011 but before 25 November 2019, he acted in breach of one or more of Principles 2, 4 and 6 of the SRA P11.

Insofar as such conduct took place on or after 25 November 2019, he acted in breach of one or more of Principles 2, 4, 5 and 7 of the SRA P19 and/or Paragraph 1.4, of the CCSRR19.

2. Dishonesty was alleged as an aggravating feature of allegation 1.1 and 1.2 (In respect of Mr Collins's conduct up to 25 November 2019) however proof of dishonesty was not an essential ingredient for proof of the allegation.

2.1. Dishonesty is also alleged in respect of allegations1.1 and 1.2 in respect of the Respondent's conduct from 25 November 2019 as a breach of Principle 4 of the SRA P19.

3. Mr Collins admitted the allegations, including that his conduct was dishonest as alleged.

Documents

4. The Tribunal had before it the following documents:-

- Rule 12 Statement and Exhibit IJ1 dated 22 February 2024
- Statement of Agreed Facts and Proposed Outcome

Background

5. Mr Collins was admitted as a solicitor in October 1995. At all material times he practised as an associate solicitor at Russell Jones & Walker ('RJW') (between 2004 and 2012) and subsequently as a Principal Lawyer (Partner) at Slater & Gordon UK Limited ('S&G'), until he resigned on 21 December 2021 during the course of disciplinary proceedings brought against him by S&G. Mr Collins did not have a current practising certificate and was not employed by a firm of solicitors

Application for the matter to be resolved by way of Agreed Outcome

6. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Proposed Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

Findings of Fact and Law

7. The Applicant was required to prove the allegations on the 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 Mr Collins's rights 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.

8. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that Mr Collins's admissions were properly made.

9. The Tribunal considered the Guidance Note on Sanction (10thedition – June 2022). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. Mr Collins was an experienced solicitor. He had conduct of the EH matter for a significant period of time. He had made false and misleading statements to her about the progress of her case for approximately

16 years of the 17 year retainer. He had even created false documents to support the false narrative. The Tribunal found Mr Collins's dishonest conduct to have been repeated over an extensive period of time. In mitigation, it was noted that Mr Collins had co-operated in full with the investigation into his conduct, and that he had a previously unblemished 20 year career. Given the nature and seriousness of the misconduct, the Tribunal determined that the only reasonable and proportionate sanction was to strike Mr Collins off the Roll of Solicitors. The Tribunal did not find (and indeed it was not submitted) that there were exceptional circumstances such that striking off would be disproportionate. Accordingly, the parties having submitted that strike off was the appropriate sanction, the Tribunal approved the Agreed Outcome submitted by the parties.

Costs

10. The parties agreed costs in the sum of £6,316.20. The Tribunal determined that the agreed sum was reasonable and proportionate. Accordingly, the Tribunal ordered Mr Collins to pay costs in the agreed sum.

Statement of Full Order

11. The Tribunal ORDERED that the Respondent, NICHOLAS GILES COLLINS solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,316.20.

Dated this 22nd day of April 2024
On behalf of the Tribunal

A E Banks

A E Banks
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
22 APRIL 2024

IN THE MATTER OF THE SOLICITORS ACT 1974
And
IN THE MATTER OF NICHOLAS GILES COLLINS
BETWEEN:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

And

NICHOLAS GILES COLLINS

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

1. I, Inderjit Singh Johal am a Barrister employed as a Senior Legal Adviser in the Legal & Enforcement Directorate at the Solicitors Regulation Authority, the address of which is the Cube, 199 Wharfside Street, Birmingham B1 IRN. I make this application on behalf of the Solicitors Regulation Authority (SRA)

ALLEGATIONS

2. The allegations against the Respondent are that whilst practising as a solicitor at Russell Jones and Walker and subsequently at Slater & Gordon UK Limited, he:

2.1 Between March 2004 and April 2021, misled his client EH about the progress of her personal injury claim which he was conducting on her behalf. He did this by making false and misleading statements to her including all or any of those set out in a schedule contained in a bundle accompanying this Rule 12 statement and included but were not limited to statements that/or to the effect that:

2.1.1He had advanced her compensation claim for personal injury against her former employer, the Inland Revenue.
2.1.2 He instructed barristers, Nicholas Sproull and subsequently Roger Hiorns to arbitrate on a compensation figure with the Inland Revenue.

2.1.3 A finalised adjudicated sum of £360,136.10 had been awarded to EH for compensation by Roger Hiorns in respect of her claim and that there was a Court Judgment/Order for that amount made on 14 March 2013.
2.1.4 That the Inland Revenue had appealed against the interest element of the compensation award and the appeal was heard at a Court hearing on 29 September 2016 and was ultimately unsuccessful.
2.1.5 That District Judge Carson had determined the interest award and HHJ Williams determined the appeal.
2.1.6 Bailiffs had been instructed in respect of a judgment debt against HMRC following an award of damages and interest.
2.1.7 He sent a letter dated 24 October 2017 to the Complaints Officer at High Court Enforcement Group in Swansea because of purported delays in enforcement of the Judgment.
2.1.8 An application for a third-party debt order had been submitted to Cardiff County Court on 23 October 2017.
2.1.9 There was a hearing at Cardiff County Court on 14 February 2018 in respect of an application for a third-party debt order and/or in respect of the HMRC's appeal regarding jurisdiction of the bailiffs;
2.1.10 Susan Davies was the barrister from LPC Law that represented EH at the County Court hearing on 14 February 2018.
2.1.11 There was a further court hearing in February 2019 to consider HMRC's appeal/objections.
2.1.12 That a third-party debt order (the equivalent of a garnishee order) had been made by the Court on or around October 2019.

And in doing so, in so far as such conduct took place before 1 July 2007, he acted in breach one or more of Rules 1(a), (c) and (d) of the Solicitors' Practice Rules 1990 ("SPR 90").

Insofar as such conduct took place between 1 July 2007 and 5 October 2011, he acted in breach of one or more of Rules 1.02, 1.04 and 1.06 of the Solicitors' Code of Conduct 2007 ("SCC 07").

Insofar as such conduct took place on or after 6 October 2011 but before 25 November 2019, he acted in beach of one or more of Principles 2, 4 and 6 of the SRA Principles 2011 ("SRA P11").

Insofar as such conduct took place on or after 25 November 2019, he acted in breach of one or more of Principles 2, 4, 5 and 7 of the SRA Principles 2019 ("SRA P19") and/or Paragraph 1.4, of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019 ("CCSRR19").

2.2 Between 2005 and March 2019, he provided EH with documents that he prepared in order to support the false and misleading statements he made to her about her personal injury claim including any or all of the following:

2.2.1 Submissions in March 2006, October 2009 and January 2014 and instructions in October 2009 to barristers purportedly instructed to arbitrate a compensation figure with the Inland Revenue/HMRC;

2.2.2 His notes taken of a court decision handed down at a hearing on 25 May 2018 and of a Court hearing on 14 February 2019;

2.2.3 A letter dated 24 October 2017 to a Complaints Officer at the High Court Enforcement Group in Swansea about purported delays in enforcement of the Judgment.

2.2.4 A letter and an application for a third-party debt order purportedly sent to the Cardiff Country Court on 23 October 2017.

And in doing so, in so far as such conduct took place before 1 July 2007, he acted in breach one or more of Rules 1(a), (c) and (d) of the Solicitors' Practice Rules 1990 ("SPR 90").

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Insofar as such conduct took place on or after 25 November 2019, he acted in breach of one or more of Principles 2, 4, 5 and 7 of the SRA Principles 2019 ("SRA P19") and/or Paragraph 1.4, of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019 ("CCSRR19").

3. Dishonesty is alleged as an aggravating feature of allegation 2.1 and 2.2 (In respect of the Respondent's conduct up to 25 November 2019) however proof of dishonesty is not an essential ingredient for proof of the allegation.

4. Dishonesty is also alleged in respect of allegation 2.1 and 2.2 in respect of the Respondent's conduct from 25 November 2019 as a breach of Principle 4 of the SRA P19.

ADMISSIONS & SANCTION

5. The Respondent admits all the allegations in their entirety and admits that he was dishonest. He accepts that he should be struck off the roll of solicitors.

BACKGROUND

6. The Respondent was admitted as a solicitor on 16 October 1995 and is 53 years old. At all material times he practised as associate solicitor at Russell Jones & Walker ('RJW') (between 2004 and 2012) and subsequently as a Principal Lawyer (Partner) at Slater & Gordon UK Limited ('S&G'), until he resigned on 21 December 2021 during the course of disciplinary proceedings brought against him by S&G.

7. The Respondent does not have a current practising certificate and is not employed by a firm of solicitors.

Background

Facts and matters relied upon in support of allegation

8. EH was employed by the Inland Revenue, which subsequently became Her Majesty's Revenue and Customs ('HMRC'), between 1996 and 2003. In 1997/98 she made a claim under a compensation scheme that was set up to compensate employees of the Inland Revenue for upper limb disorders such as repetitive strain injuries. The claim was submitted through EH's Union's solicitors, RJW.

9. RJW had been successful in multiple similar claims and, as a consequence, a compensation scheme was formally entered into between the Inland Revenue and any qualifying claimant represented by RJW, which was intended to simplify the claims process and avoid unnecessary costly litigation. The compensation scheme rules provided for arbitration by a barrister in respect of the valuation of the claim if the parties were unable to agree a figure.

10. EH was offered £30,000 in full and final settlement of her claim in 2002 but she sought a higher compensation sum following her retirement in August 2003 on ill health grounds.

11. The Respondent took over conduct of EH's claim in/around March 2004 and he continued to have conduct of it following RJW's merger with S&G in 2012. The

Respondent was EH's main point of contact and the only person she dealt with directly in relation to her claim.

12. During the course of 17 years from 2004 to 2020, the Respondent made numerous misleading statements to EH about the progress of her claim which included:

- that he had progressed her claim with her former employers;
- that in March 2013, instructed counsel had valued/awarded her claim at £245,000.00.
- that in August 2014 her claim had been finalised, following the award of interest by the Courts in the amount of £360,136.10 and;
- that following unsuccessful appeals by Inland Revenue/HMRC against the interest awarded, he had begun enforcement proceedings of a court order (a judgment debt against HMRC made on 14 March 2013).

13. The Respondent also provided documents to EH to substantiate the misleading statements he that he made about the progress of her claim including submissions to counsel and notes of court hearings.

14. The Respondent had in fact never made any contact with EH's employers, she had never been awarded any damages and he had never sought enforcement of them. The Respondent had not instructed counsel and there had never been any court hearings in respect of EH's claim. The Respondent had not taken any substantive step to progress EH's claim.

EH's enquiries with HMRC and the Court & EH's Complaints to S&G & Applicant

EH contact with MP

15. In August 2020, after the Respondent had failed to provide her with documents to support the fact that an award had been made in her favour, EH contacted her local MP, Mel Stride, to assist her in resolving the matter against HMRC as she believed they were refusing and/or delaying payment of the settlement figure.

16. In response to being pursued for the settlement, HMRC informed Mr Stride in April and May 2021 that they had not been able to locate any information relating to the claim and had no record or evidence of the claim being made. The Respondent was contacted by HMRC and purported to assist them in locating details about EH's claim. The Respondent failed to inform HMRC of the true position in respect of EH's claim.

17. On 11 August 2021, HMRC wrote to Mr Stride informing him that "*Although Mr Collins has given us a number of documents, none of these support EH's assertion that we owe her money or quantifies that sum. Until we receive this evidence, we cannot progress EH''s case."*

EH complaint to S&G and contact with Cardiff County Court

18. In March 2021, EH made a complaint to S&G about the Respondent. She complained about, amongst other things, the lack of information received from him. Despite the complaint to S&G, the Respondent did not at that stage admit the true position in respect of EH's claim to S&G.

19. EH contacted Cardiff County Court in May and June 2021 about her claim. The Cardiff County Court informed EH that they could not locate any claim relating to her.

EH complaint to the Applicant

20. On 23 August 2021, EH made a complaint to the Applicant which contained a summary of her claim, the steps that the Respondent had purportedly carried out to advance her claim and the enquires made with HMRC and Cardiff County Court.

21. In the complaint to the Applicant, EH said "*I have no independent evidence that my solicitor has even filed a compensation claim……due to Nic Collins not providing me with evidence of the award coupled with the Inland Revenue (Defendant) having no trace of my claim plus Cardiff Court reporting that the case number quoted is not a case number of the Court (although this was what Nic Collins provided me with) I believe that he is dishonest and has committed fraud…."*

22. The Applicant contacted S&G on 8 November 2021 about EH's complaint.

S&G's investigation

23. On 17 November 2021, the Respondent attended a meeting with Matthew Tomlinson[1] and others at S&G to discuss the complaint. During this meeting, the Respondent admitted that he had misled EH and had done so for a long time. He explained that EH had been under the impression that her case had been settled against HMRC and that she was owed a sum of money, which was not the case.

[1] Mr Tomlison is employed as a Principal Lawyer and Head of Serious Injury for the North & Wales at S&G.

24. Following the meeting, Mr Tomlinson (together with a HR representative from S&G) was asked to lead the investigation into the EH's complaint. Mr Tomlison met with the Respondent on 19 November 2021 to inform him that he would be suspended.

25. On 29 November 2021, Mr Tomlinson sent a letter inviting the Respondent to an investigatory meeting on 1 December 2021. The letter went on to say that the meeting had been convened to discuss the following allegations:

"*It is alleged that you grossly mislead a client and failed to act in their best interests, which has resulted in a formal complaint to their MP and subsequently the SRA.*

It is also alleged that you failed to act with honesty and/or integrity in your dealings with the client as a consequence of which you failed to uphold the public trust and confidence in the solicitors profession. If true this could be contrary to Principles 2, 4, 5 and 7 of the SRA code of Conduct."

26. On 1 December 2021, the investigatory meeting was held with the Respondent. The Respondent made extensive admissions about his handling of EH's personal injury case including the following:

- That he represented to EH that an adjudicated sum of £360,136.10 had been awarded to her in respect of her claim when there was no award;
- There was no counsel involvement in EH's claim and there was no arbitration or adjudication on the purported figure agreed with Inland Revenue;
- EH's claim had never been before the civil courts;
- He represented to EH that bailiffs had been authorised to collect an award plus interest from HMRC.

27. The Respondent also admitted to preparing documents to mislead EH including:

- A third-party debt order application dated 23 October 2017 which referred to a judgment given on 14 March 2013 which awarded the sum of £360,136.10 to EH and includes calculations for interest referring to a judgment given by District Judge Carson at Cardiff County Court and HHJ Williams at the High Court Cardiff District Registry.

  The Respondent admitted that no judgment or Court Order was made on 14 March 2013, that SJ Carson and HHJ Willaims had no involvement in the matter (as it never went before the civil courts), that the application was

only sent to EH and that he prepared the document to support the argument that he had given EH about there being an adjudicated sum.

- A letter dated 24 October 2017 to the Complaints Officer at the High Court Enforcement Group. The Respondent admitted that the letter had not been sent anywhere other than to EH and that he created it " *in response to her request to do that to try portray myself to be seen to be doing something."*

28. Following the investigatory meeting and, having carried out a review of all the documentation including the notes of the meeting, Mr Tomlinson concluded that the Respondent had gone to great lengths to mislead EH into believing that her case had been settled and that he had deliberately concealed the case by closing it down on case management systems so that it would not be listed on any internal case management system or active case reports.

29. Mr Tomlinson prepared an Investigation Report dated 3 December 2021 in which he recommended disciplinary proceedings were appropriate. On 17 December 2021, S&G held a disciplinary meeting with the Respondent. In the meeting the Respondent accepted that he had not been truthful to EH. The Respondent resigned on 21 December 2021.

30. On 31 January 2022, S&G sent a letter to the Applicant detailing the disciplinary proceedings against the Respondent. The letter contained their preliminary conclusions arising from their investigation which included that they had not established any evidence of correspondence passing between RJW/S&G and HMRC between 2003 and April 2021.

31. EH provided the Applicant with a comprehensive witness statement dated 8 August 2023. EH's witness statement details the misleading representations made to her by the Respondent between 2004 and 2020 and exhibits corroborating evidence such as the documents that the Respondent prepared and emails and texts sent by him to EH.

32. An Investigation Officer at the Applicant prepared a schedule (referred to in allegation 2.1 of this statement) of misleading information given to EH by the Respondent. There are 258 entries on the schedule dated between 27 August 2004 and 14 April 2021. The schedule was prepared from the information provided by EH in her witness statement.

ALLEGATIONS 2.1 and 2.2

2004 to 2005 – false and misleading statements about sending schedules of losses and corresponding with Inland Revenue solicitors

33. On 7 July 2004, the Respondent sent a letter to EH enclosing an updated schedule of loss for EH to review. The grand total of losses in the schedule was £405, 040.15. The letter stated, "*Once I hear from you it can be immediately forwarded to the defendant's solicitors."*

34. EH telephoned the Respondent on 8 July 2004 and advised him that she agreed the schedule of loss. EH assumed that the Respondent sent the schedule to the defendant solicitors after she telephoned as he had indicated that he would do. Although the Respondent did not confirm to EH that he had sent the letter, that was the clear implication from subsequent letters he sent to her.

35. On 27 August 2004, the Respondent sent a letter to EH in which he stated *" I write by way of update and let you know that I have not heard further from the Defendant's solicitors. I understand they will be responding shortly. If you have any further queries in the meantime then please do not hesitate to let me know but otherwise I will "chase as appropriate and write again shortly*." The letter implies that the Respondent had been in touch with the defendant solicitors and was awaiting a response from them.

36. The Respondent had not sent any correspondence to the Inland Revenue solicitors; however, he wrote to EH again on 5 January 2005 informing her that he had not received an offer and that he would be writing to them again and was hoping to follow that up with a telephone call to them in 10 days time to discuss the matter with them. This letter also referred to invoking a dispute procedure involving arbitration by a barrister.

37. The Respondent again wrote to the EH on 26 May 2005 suggesting that they notify the Inland Revenue Solicitors of a deadline of 12 weeks for an offer to be received and that, in the absence of an offer being received, the arbitration procedure would be invoked. In the letter the Respondent referred to forcing the Inland Revenue to prioritise EH's claim and the department being very busy because of a recently expired deadline to close the scheme. The Respondent had not actually been in touch with the Inland Revenue solicitors and was providing excuses for the purported delay in receiving an offer from them.

38. In a telephone conversation on 31 May 2005 with the Respondent, EH agreed to impose a deadline of 12 weeks for the Inland Revenue to submit an offer. The Respondent informed EH that he would send a letter to the Inland Revenue advising the deadline on that day or the day after. However, he did not send any such letter.

39. After sending a letter of complaint to the Respondent's supervisor on 26 July 2005 about the level of service received from the Respondent (the Respondent having failed to send to EH details of the value of an offer she should make in the absence of receiving an offer from the Inland Revenue), he sent a letter to EH dated 27 July 2005 setting out his thoughts on the value of her claim.

40. On 12 September 2005, the Respondent sent a letter to EH in which he enclosed a draft schedule of loss together with a proposed without prejudice draft letter to the defendants which put forward a figure of £301,724 that EH would accept in settlement of her claim. The without prejudice letter referred to the offer being open for 21 days after which the arbitration procedure would be invoked. The without prejudice letter was never sent to the defendants.

2005 to 2008- False and misleading statements about invoking arbitration procedure and instructions of barrister and preparation of submissions

41. The Respondent led EH to believe that instructions had been sent to a barrister, Nicholas Sproull of Albion Chambers in Bristol, to arbitrate and reach a decision on the amount of settlement. Although the Respondent did not provide any evidence to EH of the instructions, he informed her he would send a submission to a barrister and she became aware of Mr Sproull's name after/around May 2007 in a telephone conversation with the Respondent.

42. Between 3 February and 26 March 2006, the Respondent corresponded with EH about information in relation to her claim which he collated into submissions to the barrister.

43. Between 2006 and 2007, the Respondent informed EH that there was a delay in her claim being dealt with as the instructed barrister had a high caseload.

44. On 21 January 2008, the Respondent sent EH a letter about a recent meeting that he had about the valuation of her claim and specifically about calculations for loss of earnings and on 14 February 2008 he sent EH a further letter attaching a submission to the barrister about future lost earnings.

45. The Respondent never instructed Nicholas Sproul in respect of EH's claim. During the Applicant's investigation, Mr Sproull was contacted and he has confirmed that he is certain that no instructions were given to him to arbitrate and reach a decision on the amount of settlement in relation to EH's personal injury claim.

2009 – False and misleading statements about instructing a new barrister to arbitrate an award

46. In 2009 and following purported delays by Nicholas Sproul, the Respondent discussed on the telephone with EH the reassigning of her case to new barristers with an invitation for them to put forward a timescale for the arbitration.

47. On 20 May 2009, the Respondent told EH in a text message that he had submitted her claim. The text message reads "*just to confirm papers sent as requested. Will speak with chambers before the end of the week and speak to you once done so.'*

48. On 25 May 2009 he told EH in a text message to her that the barrister had given a timescale of 16 weeks. The text to EH reads "*Hi just to say all ok with 16 weeks. No commitment to less but will try if poss….."*

49. The barrister instructed, according to the Respondent, was Roger Hiorns of Gough Chambers. This was confirmed by the Respondent in an email to EH on 31 March 2016.

50. The Respondent admitted in the Investigation hearing that Roger Hiorns was not in fact instructed. Roger Hiorns informed the Applicant during the investigation that he had no record of doing any work for EH.

2009-2013 false and misleading statements about the barrister, purported meetings with Inland Revenue, an arbitration award and enforcement

51. The Respondent continued to make false and misleading statements to EH about the involvement of a barrister in her claim including that the barrister had awarded £245,000 in respect of the value her claim. He also made false statements about meetings with the inland revenue.

52. The false and misleading statements made and the documents provided by the Respondent include the following:

- 54.1 In around the middle/end of 2009, the Respondent contacted EH by telephone and explained that the barrister had requested a more detailed submission and updated schedule.

- 54.2 On 23 October 2009, the Respondent sent to EH by email a copy of detailed instructions that he had purportedly sent to the barrister.
- 54.3 On 7 September 2010, the Respondent sent a letter to EH with draft submissions in support of quantum.
- 54.4 On 14 October 2010, the Respondent sent a text message to EH following a purported meeting with the barrister on that day. In the text message he said "*went well. Gave his decision on outstanding arguments/points. Inland Rev have 28 days to agree figures with us based on his judgment otherwise he'll impose figures*…."
- 54.5 After a final sum had purportedly not been agreed with the Inland Revenue, the Respondent, in text messages to EH between November 2011 and February 2012, stated that he was chasing the barrister, including saying "…..*spoke to the clerk who was going to chase him for us…."* and "*Barrister back last week after hols over Xmas. Clerk to speak to him and apply pressure…"*
- 54.6 On 5 March 2012, the Respondent told EH that a complaint was submitted to the barrister and, on 1 May 2012, he told her (after agreeing the wording of a letter with EH) that a letter of complaint had been sent against the barrister to the Ombudsman.
- 54.7 Between May and September 2012, he sent text messages to EH saying he was chasing the barrister's clerk including saying "*Hello. Clerk not around yesterday or today so left msg for call back to let me know the position. Will chase it up and let you know"*
- 54.8 On 24 September 2012, he informed EH in a text that he was meeting with the Inland Revenue on 27 September 2012. In the text he said ""*speaking with the Revenue on Thurs so will let you know how we get on"*
- 54.9 On 5 October 2012, he text EH to say that the Ombudsman was putting pressure on the barrister for a response and should be contacting him next week. Th text read "*ombuds putting pressure on for response. Will contact me next week…"*
- 54.10 On 11 October 2012, the Respondent sent a text to EH (in response to her query clarifying who the meeting was with) in which he referred to a meeting with the Solicitors for the Inland Revenue.
- 54.11 On 14 November 2012, the Respondent indicated that a meeting with the Inland Revenue was going to take place on that day.

- 54.12 On 12 December 2012, the Respondent sent a text to EH saying "*Hello. Solicitors for IR say they are pushing to get back to us pre Xmas. They are aware of the risk that barrister shd revert before then. Barrister due to revert "imminently"…..."*
- 54.13 On 8 February 2013, the Respondents sent a text to EH saying " "*Hello. I'm in London next Mon and Tues so going to try and see who I can (IR/Barrister/Clerk) Don't yet know their availability. Will also chase Ombudsman re escalation as we discusses. Will keep you posted as soon as hear on any of above…..."*
- 54.14 On 21 February 2013, the Respondent sent a text to EH saying that a decision was now imminent. The text read "*Good news. Msgs received that decision now imminent. Awaiting confirmation as to when that is. Can call you tomorrow when heard……"*
- 54.15 On 18 March 2013, the Respondent text EH informing her that an award had been made by the barrister. In the text he said " *Hello. £245k. Only got the figure. Seems light to me. Will find out more info and get in touch*…."
- 54.16 On 28 May 2013, the Respondent messaged EH after a purported meeting with the barrister and the Inland Revenue outlining his decision. He advised EH that it was possible to challenge any parts of the award that were incorrect.
- 54.17 The Respondent sent a text to EH on 4 June 2013 about a mathematician analysing the figures. The texts reads "*Hello. Our mathematician is analysing the figures now. His first thought is that there may be an error simply in the maths than the principles applied. He's trying to work it through now.* The Respondent emailed the purported calculations to EH on 1 August 2013.
- 54.18 On 4 October 2013, the Respondent emailed EH the barristers purported breakdown of his award.
- 54.19 On 6 December 2013, the Respondent sent an email to EH about taking Court action. In the email he says *"12 week point (exchange of witness statements) is 16th. We cannot send the bailiffs in on the 17 December but can at that point apply to the Court."*
- 54.20 In email exchanges on 17 December 2013, in response to a query from EH about receiving money from the IR and, if not, seeking

confirmation that he had applied to the Court that day for an order the Respondent said *"Hello. Nothing rec'd so letter sent as discussed."*

2014 to 2016 – false and misleading statements about court proceedings and orders, further submissions to a barrister and appeals by the Inland Revenue

53. Between 2014 and 2016 the Respondent continued to make false and misleading statements to EH. The statements related to purported Court proceedings and Court orders that had been made in her favour, submissions to a barrister and appeals by the Inland Revenue. The Respondent admitted in the Investigatory meeting at S&G that EH's claim had never been before the civil courts.

54. The false and misleading statements made and the documents provided by the Respondent included the following:

- 56.1 In response to a text from EH to the Respondent on 13 January 2014 enquiring about whether he had heard from the Court, the Respondent replied on the same day saying, " *yes they say that it's likely to be dealt with at the end of this week or start of next week".*
- 56.2 The Respondent prepared and finalised submissions (grounds of appeal) to the barrister about appealing the calculation of past and future loss of earnings together with interest. There were various emails and texts to between the Respondent and EH about it. On 20 January 2014, the Respondent agreed with EH that he would submit the submissions that day.
- 56.3 On 20 March 2014, the Respondent sent a text to EH to inform her that an order had been made for interim payment within 28 days. The text from the Respondent says….."*Got Order for Int Pay amt payable in standard 28 days with ability to revert once appeal concluded to up the judgment rather than having to start again. Will explain later or tmr"*
- 56.4 In responses to texts from EH about bailiff involvement and contact with them, the Respondent sent various texts in May and June 2014 to her in which he said "Hi*, They had a promise of payment apparently. As appears standard, they'll give a few days to see if materialises but no more*….." and "*Hello. Sorry but got no return call from them. Will chase up today when in and let you know*," and "*they are to ring me later*….."
- 56.5 On 27 August 2014, the Respondent told EH in a telephone call that a meeting had taken place with himself, the barrister and the Inland

Revenue and that EH's compensation award had been finalised in the amount of £360,136.10.

- 56.6 On 8 and 11 September 2014, the Respondent informed EH by text that the barrister's final compensation figures were sent to the Court. In response to texts from EH querying whether he had contacted the Court and sent a letter and the figures, he said "….*will do so by letter today and let you know when*……" and "*Yes. Can't be sure re timescale* [regarding a purported IR deadline] *but will chase up again*."
- 56.7 Following EH chasing the Respondent for updates regarding enforcement of payment of her compensation and specifically whether a Court order had been granted, the Respondent sent the following texts to EH: On 12 November 2014 he said *"I would expect/hope so. I'll ring them, when in office later this afternoon….*" and, on 13 November 2014, he said "*Hi. yes its done. Hope to find out terms later."*
- 56.8 In an email from the Respondent to EH on 12 December 2014, he told her that the terms of the Court order included payment within 28 days. In the email he says " *Payment ordered for 28 days from service so depending on method of service that would be Wed/Thursday therefore time limit now expired and have green light to enforce. Instructions sent. Will chase up at start of the week to ascertain the position and let you know*….."
- 56.9 On 16 January 2015, the Respondent emailed EH and told her that the Inland Revenue had appealed the interest element for late payment and the appeal was a two-stage process. The Respondent, in a text sent to the EH, said *"…..Interest element has been appealed. It's a 2 stage process. First is V. quick paper review by judge. If concludes no hope of success it'll be rejected and all proceeds as before. If gets past that hurdle it'll then be properly considered in depth. Should know if it falls at first hurdle in a week…*"
- 56.10 On 6 February 2015, the Respondent sent a text informing EH that the appeal had passed the first stage. The text to EH included the following "*Spoken with them. Has got over the first hurdle. disappointing but perhaps not surprising. Will hear with directions shortly. Will chase up next week and in meantime now request (as discussed) ability to enforce rest…"*
- 56.11 On 19 March 2015, the Respondent sent a text to EH in which he said "*Hi, Skeleton arguments (i.e written summary of arguments) to be filed within 28 days of 13 March then listed thereafter. No interim release of*

money/enforcement without separate formal applic but that wouldn't be listed any earlier anyway so doesn't seem anything to be gained. Will fine tune skeleton argument (as discussed) nothing particularly new to raise…"

- 56.12 On 5 May 2015, the Respondent provided a breakdown from the barrister of EH's purported compensation award of £360, 131.10 to her in an email.
- 56.13 On 21 September 2015, the Respondent informed EH that the hearing of the Inland Revenue's appeal was listed on 29 September 2015. In the text message to EH he said "*Hello. 29th confirmed for us at last*…."
- 56.14 On 30 September 2015, the Respondent told EH that the Court had reserved judgment. In a text to EH he said *"All done. They managed to finish late yesterday. Judgment reserved but hopefully won't take long…….will try and speak with our counsel this evening/tomorrow to get some feedback and let you know….."*
- 56.15 The Respondent sent emails to EH between 26 October 2015 and 1 March 2016 informing her that that he was chasing the Court for a decision and that there was no deadline for the judge to reach a decision.
- 56.16 On 31 March 2016, the Respondent emailed EH. He provided her (for the first time) with details of the barrister who made the compensation award (Roger Hiorns), the judge that determined the interest award (DJ Carson), the judge that determined the appeal (HHJ Williams) and the barrister that represented EH in the appeal (Andrew Arentsen).
- 56.17 On 2 September 2016, the Respondent sent a text to EH with the judge's decision in respect of the Inland Revenue's appeal. The text included the following " *Hi. 3.5% (then 3.25%) interest not 8% on basis that where contract specifies a figure it should not be deviated from…..Parties to agree interest calc and daily accrual rate or refer back to Ct in absence of agreement. To be agreed within 14 days, payment 14 days thereafter. In absence of payment or delay, expedited enforcement notwithstanding that against the Crown*…."
- 56.18 In purported absence of an agreement on the interest figure, the Respondent advised EH that the matter was referred back to the Court. On 14 November 2016, the Respondent advised EH by text that the interest had been determined as £42,062.10 plus £1,346.91. The text included the following *"Hello. Interest (sic)of £42062.10 + £1346.91 and daily accrual as*

per figures in our exchanges on 7 Sept. 14 days to appeal from last Friday 4th. No enforcement pending expiry of appeal deadline……"

- 56.19 Following the expiry of the purported appeal period, the Respondent sent an email dated 18 November 2016 to EH which set out suggested text to be included within a letter to be sent to the Court regarding enforcement proceedings. The suggested text included the following "*From the Claimants perspective, of much greater concern than the precise calculation of any interest due is payment of capital sum owed. It is self-apparent that throughout this long running matter there has been delay after delay and no apparent or reliable evidence to suggest that payment is imminent or will be proffered without an obligation to do so enforcement proceedings being taken…….We would therefore ask that immediate consideration be given to an Order for enforcement*…..". EH approved the text to be sent to the Court.
- 56.20 On 29 November 2016, the Respondent sent a text to EH to inform her that the Inland Revenue had appealed and that their request for enforcement had been sent to the Judge. The Respondent's text read *"Appeal was submitted. That and our requests (enforcement and written order) have been passed to the Judge. Will chase at the end of week and let you know*."

2017-2018 – false and misleading statements about Court proceedings including a third-party debt order and enforcement of Court orders

55. During 2017 and 2018, the Respondent again continued to make false and misleading statements to EH about purported court proceedings, including about an application for a third-party debt order and the instruction of bailiffs to enforce a court order made against the Inland Revenue.

56. The false and misleading statements made and documents provided by the Respondent included the following:

- 58.1 On 27 January 2017, the Respondent sent a text to EH informing her that the appeal against the Court's interest calculation had been dismissed. In the text the Respondent said " *Message received that appeal dismissed. Will speak with them when in office next week to find out position on enforcement"*
- 58.2 Following dismissal of the purported appeal the Respondent text EH on 8 February 2017 informing her that the Inland Revenue had until 2

March 2017 to pay otherwise bailiffs would be instructed. His text to EH included the following "*Hello chased up this morning. Doesn't look like payment rec'd within the 14 days so they'll now visit to collect. Will chase again at the end of the week and update you….*"

- 58.3 Following purported delay on the part of the bailiffs, the Respondent emailed EH on 28 September 2017 confirming that he was looking into the complaint process relating to the bailiffs and was considering other avenues of enforcement such as a garnishee order. The email included the following "….*I am looking into a complaint procedure or process and should be able to advise you on that shortly……HCE are the organisation involved and I should imagine they may well have acted or the Revenue before……I will look at alternative possible enforcement companies and whether there is any possibility of someone else being instructed by the Cout"*
- 58.4 On 9 October 2017, the Respondent emailed EH with suggested text for a letter of complaint about the bailiffs. The suggested text included " *We write to register our formal dissatisfaction with your failure to complete the enforcement process…..the continuing delay is unjustified and unacceptable. Our understanding is that the unusual nature of the instructions and identity of the defendant may be responsible for an apparent reluctance to enforce in the usual way….if you cannot deal with the instructions please notify us so that we can bring the matter to the attention off the Court and request the instructions be removed from you…."*
- 58.5 Following approval of the text of the complaint and EH's request for a copy of the letter, the Respondent sent her a copy of a letter dated 24 October 2017 that was purportedly sent to a Complaints Officer at the High Court Enforcement Group at Swansea.
- 58.6 In November 2017, the Respondent informed EH that he had lodged an application for a garnishee order[2] with the Court. On 1 December 2017, the Respondent told EH that the application would be by way of an oral hearing. EH was also led to believe that the hearing would also address the Inland Revenue's appeal regarding jurisdiction of the bailiffs.
- 58.7 The Respondent provided EH with a copy of the application for the garnishee order in an email dated 4 May 2018. The application was for a

[2] A garnishee order is issued by a Court and requires an employer to withhold wages from an employee's pay cheque and send the money directly to another party. Banks and financial organisations may be served with the garnishee orders, which requires them to freeze a judgment debtor account.

third-party debt order[3] made at '*CCMC (Wales) County Court'* and refers to a judgment debt of £360,136.10 given on 14 March 2013 by the Court (claim number Taylor/10455) and the judgment debtor being HMRC. The third party is described as Barclays Bank PLC, '*who owes money to (or holds money to the credit of) the Judgment Debtor.'* The application contains a statement of truth signed by the Respondent and it is dated 27 October 2017.

- 58.8 On 14 December 2017, the Respondent sent a text informing EH that the hearing date was in January 2018.
- 58.9 On 22 January 2018, the Respondent sent an email to EH informing her that he would represent her at the hearing for the garnishee order, if he was available. The email included the following "*I'd normally cover the hearing myself if available but can instruct a barrister if need be……..I gather that we should have a date for it this week following my conversation at the end of the week….."*
- 58.10 On 26 January 2018, the Respondent sent a text to EH saying "*14th Feb is the listing…."*
- 58.11 In an email on 26 February 2018, the Respondent informed EH of the outcome of the purported hearing. The email included the following "….*All went ahead as expected at the hearing. No new novel/unexpected arguments were raised. It was essentially a "rerun." We have been told we will hear within no more than 28 days of the hearing date….."*
- 58.12 On 12 March 2018, in response to EH's email querying details of the barrister who had represented her at the garnishee order hearing, the Respondent said "*Rather than use a particular Chambers we actually instructed what is akin to a national agency of barristers which has the advantage of having national geographical coverage for all Courts. The advantage is that you do not then have the difficulty (and frankly cost) of trying to get someone to trek half way across the country. They are much more flexible. Their name is IDC. I have not received any written note. There would be a further charge for that which we would not normally think it necessary to incur, especially pending any decision*…" The Respondent went on to set out a synopsis of the barrister's arguments.

[3] A third-party debt order is an order of the court that freezes money that might otherwise be paid to the defendant of a judgment. This order can be made against a person or organisation such as a bank. The bank is the third-party and the order stops the defendant from having access to the money until the court decides. The creditor can make an application for a hardship payment from the frozen account.

- 58.13 On 20 April 2018, the Respondent sent a text to EH advising her that the Court's decision would be handed down on 25 May 2018.
- 58.14 On 25 May 2018, the Respondent emailed EH to advise that the Court decision had been handed down. In the email (and in response to a query from EH about whether the Respondent's note of a hearing would carry equal weight as a Court Transcript), the Respondent said "*Our own notes should give us what we want (an accurate record) but in the unlikely event of there being any dispute about the record, there would always still be open the possibility of obtaining a formal transcript from the Court so there need be no worry about the weight attached to our own record. I will get the notes typed up asap……..*"
- 58.15 On 8 June 2018, the Respondent emailed EH with his notes of the purported Court decision handed down on 25 May 2018. The Respondent's detailed notes (headed '*Abbreviated Notes*:) include the following statements: "*This is a hearing to determine an Appeal by the Defendant in respect of damages awarded…..Neither seen or heard any argument (which I would accept) that the determination of the sum due has been inappropriately arrived at……The determination of the award shall remain unaltered".* The notes also referred to the parties identifying any reasons/objections as to why the award was against the scheme rules or the law and raising those with each other within 28 days and the other party having 21 days to agree or disagree. In the case of agreement, the parties would thereafter within 7 days agree an amended level of damages or if there remained a dispute it would be for the Court to resolve.
- 58.16 In July 2018, the Respondent informed EH that the Inland Revenue had raised objections. In a text dated 5 July 2018, he said "*Hi. Spoken with them. ir raised their issues with them not us as required. Whilst Court determines if that should be excused we are to respond so there is no further delay. Timescale runs from receipt which should be today. I'll email details to you on receipt so we can both consider response..*"
- 58.17 On 30 August 2018, the Respondent emailed EH with a document attaching two purported objections raised by the Inland Revenue and his suggested responses to the objections. The purported objections related to the award being based upon outdated medical evidence and a challenge to EH's residual earning capacity.

- 58.18 On 6 September 2018, having agreed that the Respondent would submit an amended response to the Court, he sent a text to EH informing her that he had submitted it. The text read "*All submitted. Thanks*…."

2019-2021 – false and misleading statements about Court proceedings including enforcement and Third-party debt order

57. During 2019 and 2021 the Respondent continued to make false and misleading statements to EH about purported Court proceedings, including the appeal/objections by the Inland Revenue to the award and the Court making a third-party debt order.

58. The false and misleading statements made and the documents provided by the Respondent to EH included the following:

- 60.1 On 8 February 2019 (in response to EH requesting a copy of the letter accompanying the garnishee order), the Respondent emailed EH with a copy of a purported covering letter sent with the garnishee order. The letter is dated 23 October 2017 and is addressed to CCMCC (Wales) Court and refers to the attached application and requests that the relevant fee be deducted from the firm's PBA account.
- 60.2 On 15 February 2019, the Respondent informed EH by text that the Judge had rejected the Inland Revenue's appeal/objections and they were ordered to pay the award within 21 days. The Respondent's text read "*Hello. Please to report both grounds of appeal/objection rejected. Ordered to pay within 21 days of yesterday or in the absence thereof the immediate referr again*."
- 60.3 Following the expiry of the purported deadline for the IR to pay the award and their failure to do so, the Respondent emailed EH on 29 March 2019 with updated interest calculations and his abbreviated notes of a purported Court hearing on 14 February 2019**.** The Abbreviated notes refers to the appeal being dismissed and "*Payment of the judgment sum together with interest accrued thereon should be effected within 21 days of 14 February. In the absence of compliance, the matter should be referred back to the Court for consideration of enforcement*."
- 60.4 On 23 May 2019, the Respondent advised EH by text that he was still chasing the Court and that he had found out that Susan Davies was the barrister from LPC that had represented her at the Court hearing on 14

February 2018. The text reads " *Hello. They are going to speak to the Judge when he is in at the end of next week and the following week then let know if we haven't heard before. Susan Davis is the LPC one*….."

- 60.5 On 18 October 2019, the Respondent informed EH by text that an order for garnishee equivalent had been made by the Court. His text includes the following *"Hello. Order for garnishee equivalent that was requested has been made. It is suspended for 21 days (to allow for possibility payment) but there after takes affect without further order being required…..".*
- 60.6 On 21 November 2019, the Respondent sent a text to EH about enforcement which included the following: "*Things are moving as hoped. It has been passed to enforcement already (as no separate additional Order was required in that respect) I will try and speak with them tomorrow to identify the procedure and then timeframe before updating you in any event."*
- 60.7 On 17 March 2020, following the Respondent raising a purported issue about which bank account the garnishee order should attach to, he sent a text to EH saying "*Hi. The IR have within 14 days provide details of an operational trading account into which no payments of tax are made directly from the source (the taxpayer). The purpose being that any order against such an account couldn't be subject to any challenge over "ownership" of the funds. Strange."*
- 60.8 On the 27 November 2020, after the Respondent provided a purported reference to EH for the Inland Revenue Solicitors [following the involvement of her MP], he sent her an email in which he said "*I do not know a name of the individual who would currently have conduct. Sorry. It should be capable of being traced through the reference*."

Admissions made by the Respondent

59. As referred to in paragraphs 23 to 27 of this statement, the Respondent made extensive admissions to having misled EH at the Investigatory meeting at S&G on 1 December 2021. Those admissions (which are repeated at paragraph 26 and 27 above) are in respect of the false and misleading statements he made to EH about the progress of her claim and the documents that he created to support those statements.

60. The notes of the Investigatory meeting, which the Respondent does not dispute record the admissions he made.

61. The Respondent also made admissions during the disciplinary hearing at the Firm on 17 December 2021. The disciplinary hearing notes record the following admissions:

- "*Yeah, well, my approach has in essence to begin to look at each of the allegations, to think about what I wanted to say in response to those, and then follow it up with an explanation about background. So, I guess I don't think there is much dispute over what has happened. And, you know, I've been I would say frank and candid in my dealings up to now in terms of investigation, the inquiry, so I very much doubt there's going to be any issues or disagreements between us there*"
- "*Gross negligence and grossly misleading the client- well, if gross is taken to be obvious and unacceptable, then I think what I've done is obvious and I think it is unacceptable*."
- " *In terms of the third allegation, which is a failure to act with honesty and integrity. I don't understand or distinguish between those two. I looked up integrity as a definition and it talks about honesty, so I'm treating those as one and the same thing. And if you can identify a difference that you want me to address, then please do so but I define them both as the same thing. It's just about being truthful and have I acted truthfully with the client, No I haven't."*
- *"Well, that complaint (to the MP), arose as a result of my conduct and her being misled by me so although it might not be a direct cause of the complaint to the MP, I do accept that ultimately it's interlinked and it can't really be separated. It is the same in relation to the SRA, and I do I think the client would have gone to the SRA if she had not been misled by myself now, I don't. So I accept that in all likelihood, it's ultimately my conduct that has led to those complaints going in"*

Current state of EH's claim and impact on her

62. S&G continued to act for EH post the Respondent's resignation. In 2023, HMRC informed S&G that they were no longer prepared to deal with her EH's claim under the original RSI scheme. HMRC indicated that if the matter were to proceed, it must be brought by way of a civil claim through the County Court.

63. The Respondent's claim is technically out of time and it is understood that she has not pursued a civil claim against HMRC. The Firm stopped acting for her in 2023 due to a potential conflict of interest.

64. At paragraph 30 of EH's witness statement she says [after being informed that Roger Hiorns had awarded her £234,000 in March 2013], *" I was relieved that at last after all this time I had been awarded a figure. This now meant I had some financial security for my future. From this award I would be able to pay voluntary national insurance contributions to increase my state pension. It also contributed to my husband's decision to take early retirement in June 2013. With my compensation money plus the lump sum from his pension it meant we would be able to invest the money to provide an additional income."*

65. EH has set out the impact of the Respondent's conduct on her at paragraph 104 of her witness statement which is repeated here: "*This has impacted me greatly, it has affected me financially. If the claim had been sorted quickly as it should have been then my husband and I would've been able to use that money for our retirement. It makes me very angry. I feel like I have been conned. Mr Collins caused me considerable stress and anxiety since he took over my case in 2004 and this continues as my compensation case is far from being resolved. I have sleepless nights thinking about if this will ever be sorted. As HMRC are no longer prepared to deal with my claim and S&G are unable to continue to act for me I'm not convinced that I will get what I was awarded originally or anything at all. The only option I can see open to me is to sue S&G which would mean having to trust another firm of solicitor and having the continuing stress and expense of legal action in order to bring about a resolution to my claim. My compensation case has dominated most of my life, I was 24 when my case started and currently my claim is in its 26th year without no resolution in sight.*

I do not know why Mr Collins would do this to me, why he would string me along all these years. At any time over the last 19 years, he could have owned up but even now after he has been caught out he has not acknowledged or apologised for his dishonesty…."

Breaches of the SPR 90, SCC 07, SRA P11 and SRA P19

Rule 1 (a) of the SPR 90 states "*A solicitor shall not do anything in the course of practising as a solicitor, or permit another person to do anything on his behalf, which compromises or impairs or is likely to compromise or impair ….the solicitors independence or integrity*"

Rule 1.02 of the SCC 07 states "you must act with integrity"

Principle 2 of the SRA P11 sates "you must act with integrity"

Principle 5 of the SRA P19 states "you act with integrity"

66. The Respondent misled EH over the course of 17 years about her personal injury claim. He did this by making false and misleading statements to her and supporting those with documents that he had created. The misleading was elaborate and sophisticated and the Respondent went to extensive lengths to mislead EH.

67. The Respondent failed to take any substantive steps to progress EH's case, but made numerous and repeated false and misleading statements to EH that, or to the effect that, he had sent without prejudice letters to the defendant's solicitors about the value of her claim, that he had instructed barristers to arbitrate on the value of her claim following which she had been awarded over £360,000 in damages in a Court Judgment/Order, that appeals and Court hearings had taken place in respect of the award, that bailiffs had been instructed to enforce the award and that a third party debt order (equivalent of a garnishee order) had been obtained through the Courts.

68. None of the above statements were true, as the Respondent had not sent any correspondence to the Inland Revenue/HMRC's solicitors and, as admitted by the Respondent, there was no counsel involvement in respect of EH's claim, there had not been any arbitrated or adjudicated sum of damages awarded to her and her case had not been to any civil court.

69. The Respondent supported the false and misleading statements he made to EH by providing her with documents purporting to be instructions and submissions to the barristers, notes of Court hearings and an application for a third-party debt order.

70. During the S&G's investigation, the Respondent admitted that he was untruthful to EH and that he misled her. He also admitted that the third-party application was only sent to EH and that he prepared the document to support the argument that he had given EH about there being an adjudicated sum.

71. The Respondent's actions in misleading EH over a sustained period of time amounts to a serious lack of integrity[4]on his part. By deliberately misleading EH by

[4] It is well established that the word integrity connotes moral soundness, rectitude and a steady adherence to an ethical code., See, for example, *Hoodless & Blackwell v FSA* [2003] FSMT 007. Lack of integrity is capable of being identified as present or not by an informed tribunal by reference to the facts of a particular case,. see *Newell Austin v SRA* [2017] EWHC 411 (Admin). Lack of integrity and dishonesty are not synonymous. A person may lack integrity even though not established as being dishonest. In Wingate & Evans v SRA v Malins (2018] EWCA Civ 366, [2018] P.N.L.R. 22) the Court of Appeal held that *"integrity connotes adherence to the ethical standards of one's own profession. That involves more than mere honesty."*

making false and misleading statements to her and providing her with false and misleading documents that he had prepared, the Respondent breached Rule 1 (a) SPR 90, Rule 1.02 of SCC 07, Principle 2 of the SRA P11 and Principle 5 of the SRA P19.

Rule 1 (c) of the SPR 1990 states that "A solicitor shall not do anything in the course of practising as a solicitor, or permit another person to do anything on his part, which compromises or impairs or is likely to compromise or impair ….the solicitors duty to act in the best interests of each client"

Rule 1.04 of the SCC 07 states "you must act in the best interests of each client"

Principle 4 SRA P11 states "you must act in the best interests of each client"

Principle 7 of the SRA P19 states "you act in the best interests of each client"

72. The Respondent failed to advance EH's claim properly or at all against her former employers and, instead, misled her over a 17-year period by making false and misleading statements and documents, leading her to believe that she had been awarded damages following an arbitration and Court proceedings. That led to EH and her husband making significant life decisions mistakenly based upon them receiving a significant award of damages.

73. The Respondent deprived EH of the chance to advance her claim and obtain compensation within the RSI scheme and has potentially prevented a civil claim as her claim is now likely to be statute barred. The Respondent's actions were not in the best interests of EH and as a consequence he breached Rule 1(c) SPR 90, Rule 1.04 of SCC 07, Principle 4 of the SRA P11 and Principle 7 of the SRA P19.

Rule 1 (d) of the SPR 1990 states that "A solicitor shall not do anything in the course of practising as a solicitor, or permit another person to do anything on his part, which compromises or impairs or is likely to compromise or impair ….the good repute of the solicitors or the solicitor's profession "
Rule 1.06 of the SCC 07 states "you must not behave in a way that is likely to diminish the trust the public places in you or the profession"
Principle 6 SRA P11 states "you must behave in a way that maintains the trust the public places in you and in the provision of legal services"

Principle 2 of the SRA P19 "you act in a way that upholds public trust and confidence in the solicitor's profession and in legal services provided by authorised persons"

Paragraph 1.4 of the CCSRR19 states that " ***you do not mislead or attempt to mislead your clients, the court or others, either by your own acts or omissions or allowing or being complicit in the acts or omissions of others (including your client) "***

74. Public trust and confidence in the Respondent, in the solicitors profession and in the provision of legal services is likely to be seriously undermined by the Respondent's conduct in misleading EH in a sustained, sophisticated and elaborate manner over the course of many years.

75. It is clear from EH's witness statement that her trust and confidence in the Respondent and the profession has been seriously undermined by his conduct and it is submitted that the public trust and confidence in the Respondent and the profession would equally be compromised.

76. The public would expect solicitors to be truthful in their exchanges with their clients at all times and not deliberately mislead them by making false, misleading statements and providing them with false and misleading documents to support those false statements.

77. In misleading EH, the Respondent acted in breach of Rule 1(d) SPR 90, Rule 1.06 of SCC 07, Principle 6 of the SRAP11, Principle 2 of the SRAP19 and paragraph 1.4 of the CCSRR19.

Dishonesty in relation to allegation 2.1 and 2.2

78. Dishonesty is alleged as an aggravating feature of allegations 2.1 and 2.2 in respect of conduct before 25 November 2019 and is alleged as a breach of Principle 4 of the SRA P19, which requires the Respondent to act with honesty, in respect of conduct on or after 25 November 2019.

79. The Respondent's actions were dishonest in accordance with the test for dishonesty laid down in **Ivey (Appellant) v Genting Casinos (UK) Ltd t/a Crockfords (Respondent) [2017] UKSC 67 ("**Ivey v Genting Casino**")**: The following paragraph from the authority is relevant to the assessment of whether the Respondent acted dishonesty:

"When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in

practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the factfinder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."

80. The Respondent acted dishonestly according to the standards of ordinary and decent people because he deliberately made false and misleading statements to EH regarding her personal injury claim over a 17-year period and supported those statements with false and misleading documents that he had created.

81. The Respondent knew that the statements that he was making were false and misleading as he was aware that he had not advanced EH's claim, that he did not instruct barristers, that no compensation award was made to EH, that her case had not been to any civil court, that bailiffs were not instructed and that no application was made for a third-party debt order. However, the Respondent led EH to believe otherwise.

82. The Respondent has admitted to misleading EH, not being truthful to her and creating documents to mislead her to S&G.

MITIGATION

83. The following mitigation is advanced by the Respondent. It is not endorsed by the SRA:

- he co-operated with the SRA investigation and made extensive admissions during S&G's investigation.
- He has a clean disciplinary record

PROPOSED SANCTION

84. The proposed outcome is that the Respondent is struck off the Roll of Solicitors and pays the SRA costs in the fixed sum of £6, 316.20.

Explanation as to why the sanction is in accordance with the SDT's guidance note on sanction

85. The Respondent is highly culpable for his actions. This is because:

- He is an experienced solicitor. He had approximately 20 years post qualification experience when first taking on EH's case which he had conduct of for some 17 years.
- He had direct responsibility for the circumstances that gave rise to the misconduct. He had sole conduct of EH's case and he was solely responsible for all the false and misleading statements made to EH, going to the extent of creating documents to support the false statements he made.
- Her actions were deliberate and planned.
- His actions involved a significant breach of trust that EH placed in him.

86. The Respondent deprived EH of the ability to advance her claim and obtain compensation within the RSI scheme and potentially compromised any civil claim she may wish to pursue as her claim is now likely to be statute barred. The Respondent should have foreseen such harm.

87. Public trust and confidence in the Respondent, in the solicitors profession and in the provision of legals services is likely to be seriously undermined by the Respondent's conduct in misleading EH in a sophisticated, sustained and elaborate manner over the course of many years.

88. The Respondent's conduct is aggravated by:

- repeated dishonest conduct over a period of some 16 years involving misleading EH about the progress of claims.
- misconduct, which was deliberate, calculated and repeated.
- misconduct which he knew or ought reasonably to have known was in material breach of his obligations to protect the public and the reputation of the legal profession.

89. Mitigating features advance by him include his cooperation with his regulator and his admissions at an early stage to S&G.

90. The Solicitors Disciplinary Tribunal's "Guidance Note on Sanction" (5th edition), at paragraph 47, 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)****).*"

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…"

91. This case does not fall within the small residual category where striking off would be a disproportionate sentence. Accordingly, the fair and proportionate penalty in this case is for the Respondent to be struck off the Roll of Solicitors.

92. The Respondent's misconduct is at the highest level. Protection of the public and public confidence in the provision of legal services requires the Respondent to be struck off the roll.

93. The parties invite the SDT to impose the sanction proposed as it meets the seriousness of the admitted misconduct and is proportionate to the misconduct in all the circumstances.

Dated this 2024