SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 — Case No. 11495-2016

BETWEEN:

SOLICITORS REGULATION AUTHORITY — Applicant

and

RICHARD MARKHAM THOMPSON, — First Respondent
[NAME REDACTED] — Second Respondent

Before:

Ms A. E. Banks (in the chair)
Mr T. Smith
Mr M. R. Hallam

Date of Hearing: 4 October 2016

Appearances

Mark Gibson, solicitor, Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant

The First Respondent did not attend and was not represented.

Rupert Higgins from Hardwicke Chambers, Hardwicke Building, New Square, Lincoln's Inn, London, WC2A 3SB was directly instructed by the Second Respondent.

JUDGMENT

Allegations

1. The allegations against the First Respondent, Richard Markham Thompson, made by the Solicitors Regulation Authority (SRA) were that:-

1.1 He transferred a total of £38,244.00, in relation to professional disbursements for counsel's fees, mediator's fees and translation fees, from the Firm's client account to the Firm's office account between 31 October 2014 and 6 November 2014. He incorrectly retained the money in the office account until at least 5 December 2014 and then paid those who were entitled to the money between 5 December 2014 and 5 February 2015 and in so doing:

1.1.1 Failed to act with integrity in breach of Principle 2 of the SRA Principles 2011 ("the Principles");

1.1.2 Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6 of the Principles;

1.1.3 Breached Rule 7 of the SRA Accounts Rules 2011 ("SAR") by failing to remedy breaches of the SAR promptly on discovery;

1.1.4 Breached Rule 17.1(b)(ii) of the SAR by failing, by the end of the second working day following receipt, to pay any unpaid professional disbursement or transfer a sum for its settlement to a client account;

1.1.5 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment of a disbursement on behalf of the client.

1.2 The First Respondent improperly transferred £53,000.00 from client account on 7 November 2014 to the Office Tax Reserve Bank Account and utilised this money to pay his indebtedness to HM Revenue and Customs (HMRC) of £71,859.07 on 7 November 2014 and in so doing:

1.2.1 Failed to act with integrity in breach of Principle 2 of the Principles;

1.2.2 Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6 of the Principles;

1.2.3 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

1.2.4 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment to or on behalf of a client.

1.3 The First Respondent transferred £60,000.00 from client account on 6 November 2014 to the office account, of which £22,455.00 was money which should have been used for the payment of Counsel's fees, but utilised £20,000.00 of this money towards paying his indebtedness to HMRC of £71,859.07 on 7 November 2014 and in so doing:

1.3.1 Failed to act with integrity in breach of Principle 2 of the Principles;

1.3.2 Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6 of the Principles;

1.3.3 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

1.3.4 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment to or on behalf of a client.

1.4 The First Respondent made an unallocated transfer from client bank account to office bank account in the sum of £27,322.81 on 7 November 2014 which was not allocated to any individual account(s) in the client ledger(s) but was recorded on a ledger headed "SUSPENSE" and in so doing:

1.4.1 Failed to act with integrity in breach of Principle 2 of the Principles;

1.4.2 Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6 of the Principles;

1.4.3 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

1.4.4 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment to or on behalf of a client.

1.5 The First Respondent made an unauthorised transfer from client bank account to office bank account in the sum of £6,000.00 on 25 September 2014 which was utilised to pay the Firm's professional indemnity insurance, the Firm's rent and the Firm's credit card bill and thereby:

1.5.1 Failed to act with integrity in breach of Principle 2 of the Principles;

1.5.2 Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6 of the Principles;

1.5.3 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

1.5.4 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment to or on behalf of a client.

1.6 The First Respondent made improper transfers from client bank account to office bank account between 6 August 2014 and 30 December 2014 and thereby:

1.6.1 Failed to run his business or carry out his role in the business effectively and in accordance with proper governance and sound financial and risk management principles in breach of Principle 8 of the Principles.

2. Dishonesty was alleged against the First Respondent with respect to allegations 1.2, 1.3, 1.4 and 1.5 but dishonesty was not an essential ingredient to prove those allegations.

3. The allegations against the Second Respondent, made by the SRA were that:

3.1 He allowed transfers of a total of £38,244.00, in relation to professional disbursements for counsel's fees, mediator's fees and translation fees, from the Firm's client account to the Firm's office account between 31 October 2014 and 6 November 2014. He incorrectly allowed the money to be retained in the office account until at least 5 December 2014 when payments were made to those who were entitled to the money between 5 December 2014 and 5 February 2015 and in so doing:

3.1.1 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

3.1.2 Breached Rule 17.1(b)(ii) of the SAR by failing, by the end of the second working day following receipt, to pay any unpaid professional disbursement or transfer a sum for its settlement to a client account;

3.1.3 Breached Rule 20 of the SAR by allowing the withdrawal of money from client account when it was not properly required for payment of a disbursement on behalf of the client.

3.2 He allowed an improper transfer of £53,000.00 from client account on 7 November 2014 to the Office Tax Reserve Bank Account and allowed this money to be utilised to pay the First Respondent's indebtedness to HMRC of £71,859.07 on 7 November 2014 and thereby:

3.2.1 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR by failing to remedy breaches of the SAR promptly on discovery;

3.2.2 Breached Rule 20 of the SAR by allowing the withdrawal of money from client account when it was not properly required for payment to or on behalf of a client.

3.3 He allowed the transfer of £60,000.00 from client account on 6 November 2014 to the office account, of which £22,455 was money which should have been used for the payment of Counsel's fees, and allowed £20,000.00 of this money to be utilised to pay the First Respondent's indebtedness to HMRC and thereby:

3.3.1 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

3.3.2 Breached Rule 20 of the SAR by allowing the withdrawal of money from client account when it was not properly required for payment to or on behalf of a client.

3.4 The Second Respondent allowed an unallocated transfer from client bank account to office bank account in the sum of £27,322.81 on 7 November 2014 which was not allocated to any individual account(s) in the client ledger(s) but was recorded on a ledger headed "SUSPENSE" and thereby:

3.4.1 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

3.4.2 Breached Rule 20 of the SAR by allowing the withdrawal of money from client account when it was not properly required for payment to or on behalf of a client.

3.5. The Second Respondent allowed an unauthorised transfer from client bank account to office bank account in the sum of £6,000.00 on 25 September 2015 which was utilised to pay the Firm's professional indemnity insurance, the Firm's rent and the Firm's credit card bill and thereby:

3.5.1 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

3.5.2 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment to or on behalf of a client.

3.6. The Second Respondent allowed improper transfers from client bank account to office bank account between 6 August 2014 and 30 December 2014 and thereby:

3.6.1 Failed to run his business or carry out his role in the business effectively and in accordance with proper governance and sound financial and risk management principles in breach of Principle 8 of the Principles.

Documents

4. The Tribunal reviewed all the documents submitted by the parties, which included:

- Notice of Application dated 22 March 2016
- Rule 5 Statement and Exhibit MNG1 dated 22 March 2016
- Applicant's Schedule of Costs dated 19 September 2016
- Second Respondent's Answer and Exhibits (undated)
- Second Respondent's Witness Statement dated 30 September 2016

Preliminary Matter

5. The First Respondent did not attend the hearing, was not represented, and had not engaged with the proceedings at any stage. On 17 May 2016 the Tribunal had determined that it was satisfied that notice of the application, Rule 5 Statement and supporting documents had been properly served on the First Respondent, proof of

delivery of those documents on 4 April 2016 being provided. Mr Gibson referred the Tribunal to the statement of Peter Reynolds, a process server, who stated that on 24 August 2016, he personally served the First Respondent with the Tribunal's memoranda of Case Management Hearings, which referred to the hearing date.

6. Mr Gibson applied for the case to proceed in the Respondents' absence, pursuant to Rule 16(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 ("SDPR"), which provided that:

> "If the Tribunal is satisfied that notice of the hearing was served on the Respondent in accordance with these Rules, the Tribunal shall have the power to hear and determine an application notwithstanding that the Respondent fails to attend in person or is not represented at the hearing."

7. It was submitted that given the statement from the Process Server, it was clear that the First Respondent had properly been served with notice of the hearing, and that he was aware of the hearing date.

8. It was clear that the First Respondent would not attend, and had voluntarily absented himself from the proceedings such that he had waived his right to appear.

9. The Tribunal also considered the cases of R v Jones [2001] EWCA Crim 168 (Jones), Adeogba v GMC [2016] EWCA Civ 162 (Adeogba), and Rehman v The Bar Standards Board [2016] EWHC 2023 (Admin) (Rehman). In Rehman, Hickinbottom J found that a Tribunal could hear matters in the absence of the Respondent if it considered it just to do so. The discretion to proceed in the absence of the Respondent should be exercised with the utmost care and caution. The starting point for considering whether matters should proceed in the absence of the Respondent was the criteria set down in Jones which included:

- the nature and circumstances of the Respondents behaviour in absenting themselves from the trial and whether their behaviour was deliberate, voluntary and such as plainly waived their right to appear;
- whether an adjournment might result in the Respondents attending;
- the likely length of any adjournment;
- the seriousness of the offence;
- the general public interest and the particular interest of victims and witnesses that the proceedings should take place within a reasonable time of the events to which they relate;

10. Whilst fairness to the affected professional was of prime importance, other relevant factors included:

- Fairness to the prosecuting body (including their witnesses);

- The absence of any power to require the attendance of the professional who was subject to disciplinary proceedings;

- The burden on professionals who are subject to a regulatory regime to engage with the regulator, in respect of both the investigation and the ultimate resolution of any charges;

- The cost and delay involved in an adjournment;

- The public interest in ensuring that professional standards are maintained and enforced.

11. The Tribunal was satisfied that the proceedings, and notice of the hearing date, had been properly served on the First Respondent it was clear that the First Respondent was fully aware of the hearing date, and had chosen not to attend the hearing, such that he had plainly waived his right to appear. The Tribunal had regard to the principles in Jones and Rehman. The Tribunal was satisfied that in this instance the First Respondent had chosen voluntarily to absent himself from the hearing, and given his complete lack of engagement with the proceedings, was unlikely to attend if the matter were to be adjourned. It was in the public interest and in the interests of justice that this case should be heard and determined as promptly as possible, particularly given that the allegations included allegations of dishonesty against the First Respondent, who still held a current practising certificate. Further, the Second Respondent had attended and was in a position to proceed with the hearing of this matter and an adjournment would add to his costs. It would be unjust and contrary to the interests of the public to adjourn the matter.

Factual Background

12. The First Respondent was born in 1956, and was admitted to the Roll in 1982. His name remained on the Roll, and he held a current practising certificate subject to the following conditions:

- He may act as a solicitor, only as an employee whose role has first been approved by the SRA;

- He is not a manager or owner of any authorised body or authorised non-SRA Firm;

- He may not act as a compliance officer for legal practice or compliance officer for finance and administration for any authorised body or authorised non-SRA Firm;

- He does not hold, receive or have access to client money, or act as a signatory to any client or office account, or have power to authorise electronic transfers from any client or office account;

- He shall immediately inform any actual or prospective employer of these conditions and the reasons for their imposition.

13. The Second Respondent was born in 1955 and was admitted to the Roll in 2000. His name remained on the Roll; he did not hold a current practising certificate.

14. At the material time the Respondents were partners of T & L Solicitors ("the Firm"). Having obtained authorisation, on 27 November 2014 a Forensic Investigation Officer (FIO), commenced an investigation of the Firm which culminated in a Forensic Investigation Report ("FIR") dated 17 September 2015.

Allegations 1.1 and 3.1 - The transfer of a total of £38,244.00

15. During the period 31 October 2014 to 6 November 2014 client funds of between £420.00 and £22,455.00 totaling £38,244.00, in respect of unpaid professional disbursements, were transferred to office account and incorrectly retained in office account for varying time periods.

16. The FIR exemplified two matters where money for the payment of professional disbursements was transferred from client account to office account and retained in the office account.

Client - Mr H

17. The Firm acted for Mr H in a number of litigation matters. The First Respondent transferred a total of £60,000.00 from client account to office account in respect of costs and professional disbursements. Two sums of £50,620.32 and £9,379.68 were debited from the client ledger and credited to the office ledger on 6 November 2014. Of that money the sums of £835.00 and £21,620.00 were for payment of Counsel's fees. The sum of £835.00 was retained in office account until 5 December 2015 when a payment of £835.00 was made for Counsel's fees. The sum of £21,620.00 was retained in office account until 29 January 2015 when a payment of £21,620.00 was made for Counsel's fees.

Client - Mr D

18. The Firm acted for Mr D, who, on 9 October 2014, paid £56,012.90. Between 10 and 27 October 2014, £35,000.00 was transferred from client account to office account in five payments in respect of costs. On 31 October 2014 a further £26,012.90 was transferred from client account to office account. The latter transfer resulted in £14,703.00 for unpaid Counsel's fees being retained in office bank account. The transfer resulted in a debit balance on client account and a credit balance on office account of £19,378.00. On 5 December 2014 Counsel's fees of £7,623.00 and £7,080.00 were paid.

Allegations 1.2, 1.3, 3.2 and 3.3 - Improper transfers of £53,000.00 and £20,000.00

19. The First Respondent's tax liability to HMRC was £71,859.07. On 7 November 2014 the First Respondent improperly transferred sums of £53,000.00 and £20,000.00 to the office tax reserve account and utilised this money to pay his tax liability on 7 November 2014.

20. The details of the transfers were as follows:

21. (a) Transfer of £53,000.00

21.1 The Firm's office tax reserve bank account showed a credit of £53,000.00 on 7 November 2014 with a reference of "[REDACTED] LDF LOAN". Further investigation by the FIO revealed that the £53,000.00 had been transferred from the Firm's client bank account.

21.2 In interview on 9 June 2015 the First Respondent admitted that he had made the transfer. He advised that he was expecting money from a loan from LDF which would cover the money he had transferred. He informed the FIO that he was expecting money from LDF on the same day that he made the transfer. The FIO noted that LDF loan applications were dated 7 November 2014. The First Respondent advised the FIO that the loan applications had been made earlier but produced no evidence to that effect.

21.3 The First Respondent explained that HMRC had been making threats regarding payment and he accepted that he was "caught between a rock and a hard place." On 19 November 2014 a loan of £28,108.62 from LDF was credited to office bank account and on 20 November 2014 £25,000.00 was transferred to client bank account to partially rectify the shortage.

21.4 A further loan of £10,000 from Investec was credited to the office tax reserve account on 25 November 2014 and was then transferred to office bank account on 26 November 2014. Also, a sum of £28,000.00 was transferred from office to client account on 26 November to fully rectify the cash shortage that had been created by the transfer.

22. (b) Transfer of £20,000.00

22.1 The First Respondent transferred a total of £60,000.00 from the client account of Mr H to office account in respect of costs and professional disbursements. Two sums of £50,620.32 and £9,379.68 were debited from the client ledger and credited to the office ledger on 6 November 2014. Of the £60,000.00, £22,455.00 comprised money which was supposed to be for payment of Counsel's fees. On 7 November 2014 the First Respondent transferred £20,000.00 of the £22,455.00 to the Firm's office tax reserve account.

22.2 At a meeting on 9 June 2015 it was put to the First Respondent by the FIO that without the transfer of Counsel's fees from client of office bank account it would not have been possible for him to make payments to HMRC as the Firm would have exceeded its overdraft limit by over £20,000.00. In response the First Respondent said "Yes, I accept that. What can I say? It seems to be an analysis."

22.3 On 7 November 2014 the First Respondent paid his tax liability to HMRC of £71.859.07 (page 49).

Allegations 1.4, and 3.4- Unallocated transfer of £27,322.81

23. On 31 October 2014 £25,000.00 was transferred from client to office bank account in respect of the fees for several client matters.

24. On 4 November 2014 £2,322.81 was transferred in respect of the balance of fees for the client matters referred to in paragraph 23 above.

25. On 7 November 2014 a further £27,322.81 was transferred from client to office bank account and was not allocated to any individual account on the client's ledgers but was recorded on a ledger headed "SUSPENSE". The Firm's bookkeeper confirmed that the transfer on 7 November 2014 was a duplicate transfer.

26. On 7 November 2014 the office bank statement was credited with £27,322.81. On the same day the Second Respondent's tax liability to HMRC of £80,803.74 was paid which appears to have been funded in part from the transfer of £27,322.81.

27. The First Respondent confirmed that all the transfers were done by him but added that "I must have thought that there were balances I could transfer". When the FIO pointed out that the total of £27,322.81 had been transferred on 31 October and 4 November 2014 the First Respondent said "In that case done in error. I would never have done that deliberately. Same transfer duplicated. Never."

28. The cash shortage of £27,322.81 was rectified some three months later by transfer of an equivalent amount from office to client bank account.

Allegations 1.5 and 3.5 - Unauthorised transfer of £6,000.00

29. The First Respondent acted for a client V in a conveyancing matter. On 23 September 2014 £10,084.37 was transferred from client to office bank account in respect of the Firm's costs and disbursements. On 25 September 2014 a further transfer of £6,000.00 from client to office bank account was made but did not relate to the Firm's costs and disbursements.

30. A review of the office bank statements revealed that on 25 September 2014 a number of office payments were made. These were:

- Zurich Insurance £6,100.21;
- Regus Management £7,760.42; and
- MasterCard £3,776.92.

31. If the above payments had been debited without the transfer of £6,000.00 (part of £12,000 credited on 25.9.12) it would have resulted in an overdrawn office bank balance of £56,170.36 when the overdraft limit was £50,000.00.

The SRA's Investigation

32. On 15 October 2015 the First and Second Respondents were sent a report from the SRA's Supervision department which recommended an intervention into the Firm.

33. The First and Second Respondents responded by way of a letter of 23 October 2015, in which, amongst other things, they submitted that:

33.1 The First Respondent accepted that in a moment of weakness and under intense pressure he "borrowed" client funds to pay debts.

33.2 He genuinely believed that the money would be immediately repaid from a loan.

33.3 The funds that were borrowed have been repaid.

33.4 He deeply regretted what he did.

33.5 He accepted that he breached the SAR.

33.6 The Second Respondent denied that he acted dishonestly.

33.7 He accepted there were breaches of the SAR.

34. On 4 November 2015 an adjudication panel resolved to intervene into the practices of the First and Second Respondents and referred their conduct to the Solicitors Disciplinary Tribunal.

Witnesses

35. The following witness provided a statement and gave oral evidence:

- Mohnish Dhanda – Forensic Investigation Officer in the Forensic Investigation Department of the SRA

36. The written and oral evidence of the witness is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

Findings of Fact and Law

37. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for their private and family lives under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

38. **Allegation 1.1 – The First Respondent transferred a total of £38,244.00, in relation to professional disbursements for counsel's fees, mediator's fees and translation fees, from the Firm's client account to the Firm's office account between 31 October 2014 and 6 November 2014. He incorrectly retained the money in the office account until at least 5 December 2014 and then paid those who were entitled to the money between 5 December 2014 and 5 February 2015 and in so doing:**

1.1.1 Failed to act with integrity in breach of Principle 2 of the SRA Principles 2011 ("the Principles");

1.1.2 Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6 of the Principles;

1.1.3 Breached Rule 7 of the SRA Accounts Rules 2011 ("SAR") by failing to remedy breaches of the SAR promptly on discovery;

1.1.4 Breached Rule 17.1(b)(ii) of the SAR by failing, by the end of the second working day following receipt, to pay any unpaid professional disbursement or transfer a sum for its settlement to a client account;

1.1.5 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment of a disbursement on behalf of the client.

Allegation 3.1 – The Second Respondent allowed transfers of a total of £38,244.00, in relation to professional disbursements for counsel's fees, mediator's fees and translation fees, from the Firm's client account to the Firm's office account between 31 October 2014 and 6 November 2014. He incorrectly allowed the money to be retained in the office account until at least 5 December 2014 when payments were made to those who were entitled to the money between 5 December 2014 and 5 February 2015 and in so doing:

3.1.1 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

3.1.2 Breached Rule 17.1(b)(ii) of the SAR by failing, by the end of the second working day following receipt, to pay any unpaid professional disbursement or transfer a sum for its settlement to a client account;

3.1.3 Breached Rule 20 of the SAR by allowing the withdrawal of money from client account when it was not properly required for payment of a disbursement on behalf of the client.

38.1 Mr Gibson submitted that the retention of monies in relation to professional disbursements in the office account from, at the latest 6 November 2014 to, at the earliest 5 December 2014, the Respondents had breached the SAR. Further, the First Respondent, who accepted that he had made the transfers, had acted without integrity and had failed to maintain the public trust placed in him and the provision of legal services.

38.2 The Second Respondent admitted this allegation on a strict liability basis. This basis was accepted by the Applicant.

38.3 Rule 7 of the SAR provided that:

> "Any breach of the rules must be remedied promptly upon discovery. This includes the replacement of any money improperly withheld or withdrawn from a client account."

38.4 Rule 17.1(b)(ii) provided that:

> "[where payment] comprises … of client money in the form of professional disbursements incurred by not yet paid …by the end of the second working day following receipt, either pay any unpaid professional disbursement, or transfer a sum for its settlement to a client account"

38.5 Rule 20 provided that (amongst other things):

> "Client money may only be withdrawn from a client account when it is properly required for a payment to or on behalf of the client".

38.6 The Tribunal noted that in both of the exemplified matters, monies were transferred from client account to office account. The monies transferred included amounts for the payment of professional disbursements. Those payments were not made within 2 days as was required by Rule 17.1(b)(ii). The First Respondent had made the transfers, and was aware that in doing so he was in breach of the Rules. In that knowledge, the breaches were not remedied for a month at the least and almost 3 months at the most. Accordingly, the Respondents had failed to remedy the breaches promptly upon discovery in breach of Rule 7. The Tribunal noted that the monies were transferred by the First Respondent at a time when, but for the transfers, the Firm would have exceeded its overdraft limit. When the First Respondent was asked about this by the FIO he stated "Yes I accept that. What can I say? It seems to be an analysis." The Tribunal determined that whilst professional disbursements may have been properly incurred, the transfer of the monies from client to office account was not for the payment of those disbursements, but was in fact to prop up the Firm's office account. In such circumstances, the monies withdrawn from client account were not properly required, and the improper withdrawals were in breach of Rule 20.

38.7 Accordingly, the Tribunal found, beyond reasonable doubt, that the Respondents had breached the SAR as pleaded and alleged. The breaches were admitted by the Second Respondent.

38.8 The Tribunal considered that in breaching the rules in the way that he did, the First Respondent had not behaved in a way that maintained the trust the public placed in him and the provision of legal services. Members of the public would be concerned to know that monies provided to a solicitor for a specific purpose, had been used by that solicitor for his own benefit and/or the benefit of his Firm, rather than being applied as directed. Accordingly, the Tribunal found beyond reasonable doubt that the First Respondent's conduct was in breach of Principle 6 as pleaded and alleged.

38.9 The Tribunal, having determined that the First Respondent had knowingly improperly withdrawn client monies to satisfy the Firm's liabilities, found beyond reasonable doubt that his conduct lacked integrity. No solicitor, who was the guardian of client money, and understood the sacrosanct nature of client money, would act in the way that the First Respondent had. The fact that the First Respondent intended to, and did, repay the amounts improperly taken, did not excuse his deliberate and conscious acts to misapply client money.

39. **Allegation 1.2 - The First Respondent improperly transferred £53,000.00 from client account on 7 November 2014 to the Office Tax Reserve Bank Account and utilised this money to pay his indebtedness to HM Revenue and Customs (HMRC) of £71,859.07 on 7 November 2014 and in so doing:**

1.2.1 Failed to act with integrity in breach of Principle 2 of the Principles;

1.2.2 Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6 of the Principles;

1.2.3 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

1.2.4 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment to or on behalf of a client.

Allegation 1.3 - The First Respondent transferred £60,000.00 from client account on 6 November 2014 to the office account, of which £22,455.00 was money which should have been used for the payment of Counsel's fees, but utilised £20,000.00 of this money towards paying his indebtedness to HMRC of £71,859.07 on 7 November 2014 and in so doing:

1.3.1 Failed to act with integrity in breach of Principle 2 of the Principles;

1.3.2 Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6 of the Principles;

1.3.3 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

1.3.4 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment to or on behalf of a client.

Allegation 3.2 – The Second Respondent allowed an improper transfer of £53,000.00 from client account on 7 November 2014 to the Office Tax Reserve Bank Account and allowed this money to be utilised to pay the First Respondent's indebtedness to HMRC of £71,859.07 on 7 November 2014 and thereby:

3.2.1 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR by failing to remedy breaches of the SAR promptly on discovery;

3.2.2 Breached Rule 20 of the SAR by allowing the withdrawal of money from client account when it was not properly required for payment to or on behalf of a client.

Allegation 3.3 – The Second Respondent allowed the transfer of £60,000.00 from client account on 6 November 2014 to the office account, of which £22,455 was money which should have been used for the payment of Counsel's fees, and allowed £20,000.00 of this money to be utilised to pay the First Respondent's indebtedness to HMRC and thereby:

3.3.1 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

3.3.2 Breached Rule 20 of the SAR by allowing the withdrawal of money from client account when it was not properly required for payment to or on behalf of a client.

39.1 Mr Gibson submitted that in transferring monies from client account to pay his personal tax liability to HMRC, the First Respondent had breached the accounts rules, and further had failed to act with integrity or in a way that maintained the trust the public placed in him and in the provision of legal services.

39.2 The Tribunal determined that the withdrawal of client monies for the payment of personal tax was clearly an improper withdrawal. Accordingly, a breach of Rule 20 of the SAR was proved beyond reasonable doubt. The Tribunal noted that the breach was not remedied in full until 26 November 2015. The First Respondent was aware of the breach at the time of the transfer, and failed to remedy that breach for approximately 3 weeks. Accordingly the Tribunal found that the breach was not remedied promptly upon discovery and thus determined that the Respondents had breached Rule 7 as pleaded and alleged.

39.3 For the reasons detailed in paragraphs 38.8 and 38.9 above, the Tribunal determined that the First Respondent had breached Principles 2 and 6 as alleged and pleaded, and accordingly found allegations 1.2 and 1.3 as against the First Respondent, and allegations 3.2 and 3.3 as against the Second Respondent proved beyond reasonable doubt; indeed allegations 3.2 and 3.3 were admitted by the Second Respondent.

40. **Dishonesty in relation to allegations 1.2 and 1.3**

40.1 Mr Gibson submitted that the First Respondent's actions were dishonest in accordance with the test for dishonesty accepted in Bultitude v Law Society [2004] EWCA Civ 1853 as applying in the context of solicitors disciplinary proceedings i.e. the combined test laid down in Twinsectra Ltd v Yardley and Others [2002] UKHL 12 (Twinsectra): the person has acted dishonestly by the ordinary standards of reasonable and honest people and realised that by those standards he or she was acting dishonestly (dishonesty test).

40.2 The First Respondent acted dishonestly by the ordinary standards of reasonable and honest people by improperly transferring client money to the Firm's office tax reserve account and utilising it to pay his tax liability to HMRC.

40.3 Further, not only was his conduct in making the transfer from client account to the Firm's office tax reserve account and utilising the money to pay his tax liability to HMRC dishonest by the ordinary standards of reasonable and honest people but he

must also have been aware that it was dishonest by those standards for the following reasons:-

- He knew he was not entitled to transfer the £53,000.00 from client account as he knew that the transfer was not being made for the benefit of a client and/or clients;

- He knew that the transfer of the £53,000.00 was going to be used to settle his personal tax liability and he knew that it was wrong to do this;

- He accepted that there was no excuse for what he had done in relation to the transfer of £53,000.00 but said he was 'between a rock and a hard place'.

- He knew that the £20,000.00 was client money for the settlement of Counsel's fees and that it should not be utilised to pay his personal tax liability.

40.4 The Tribunal determined that reasonable and honest people operating ordinary standards would find the use of client money to pay personal liabilities dishonest, and accordingly the objective element of the Twinsectra test was satisfied.

40.5 The Tribunal noted that the loan applications it was referred to were as follows:

Loan 1	Signed 5 November 2014 and authorised 10 November 2014
Loan 2	Signed 13 November 2014 and authorised 19 November 2014

40.6 The total amount of the loans received from those two applications was £49,950.28.

40.7 The Tribunal noted that on the Firm's office tax reserve bank account, the transfer of £53,000 was noted as '[REDACTED], LDF LOAN', however, the loan monies were not received until after that date. At his interview with the FIO on 9 June 2015, the First Respondent confirmed that he had instigated the transfer, explaining that "I was expecting monies to come in. I had a reasonable and legitimate expectation that monies were coming in from [a loan company] to match those sums and that was the reason for it." Further, the First Respondent explained that he was "under extreme pressure" from HMRC to make the necessary payments, as HMRC "were making horrendous threats and it was very difficult and I accept I was caught between a rock and a hard place. [HMRC] were threatening all kind of nasties." He was "hoping the same day we get monies in and I would simply transfer it straight back….I didn't hide anything at all." The First Respondent explained to the FIO that in November 2014 "tax was the pinch point" and that he believed that having transferred the £53,000 on 7 November 2014 that transaction was "the only one I did which I knew might cause me problems if the money did not come in [from the loan company]."

40.8 It was clear to the Tribunal that the First Respondent's priority in November 2014 was not his responsibility to his clients and safeguarding the sacrosanct nature of client money, but was instead his liability to HMRC in relation to his personal tax. It was also clear that the First Respondent was aware that his actions were in breach of the rules, wrong in principle and dishonest. Whilst it was accepted that the First Respondent intended to and did repay the monies improperly taken, it did not ameliorate the inherent dishonesty of his actions. Accordingly, the Tribunal determined that the subjective element of the Twinsectra test was satisfied, and thus

found, beyond reasonable doubt that the First Respondent had been dishonest as alleged and pleaded.

41. **Allegation 1.4 – The First Respondent made an unallocated transfer from client bank account to office bank account in the sum of £27,322.81 on 7 November 2014 which was not allocated to any individual account(s) in the client ledger(s) but was recorded on a ledger headed "SUSPENSE" and in so doing:**

1.4.1 Failed to act with integrity in breach of Principle 2 of the Principles;

1.4.2 Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6 of the Principles;

1.4.3 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

1.4.4 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment to or on behalf of a client.

Allegation 3.4 – The Second Respondent allowed an unallocated transfer from client bank account to office bank account in the sum of £27,322.81 on 7 November 2014 which was not allocated to any individual account(s) in the client ledger(s) but was recorded on a ledger headed "SUSPENSE" and thereby:

3.4.1 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

3.4.2 Breached Rule 20 of the SAR by allowing the withdrawal of money from client account when it was not properly required for payment to or on behalf of a client.

41.1 Mr Gibson submitted that the purpose of the duplicated unallocated transfer was to fund in part the Second Respondent's tax liability to HMRC. For that reason, the money was improperly transferred, and amounted to a breach of Principles 2 and 6 by the First Respondent, as well as the SAR breaches by both Respondents.

41.2 The Second Respondent admitted this allegation on a strict liability basis; the admission on this basis being accepted by the Applicant.

41.3 The Tribunal determined, as with the transfer detailed above, that the money was not properly required, and thus found beyond reasonable doubt that the Respondents had breached Rule 20 as pleaded and alleged. The First Respondent was aware of the transfer at the time of making it, and thus was aware that it needed to be rectified. Monies were not replaced in full until some 3 months later. Accordingly, the Tribunal found that the Respondents had breached Rule 7 as pleaded and alleged.

41.4 For the reasons already set out above in relation to the improper transfers at allegation 1.1, the Tribunal found beyond reasonable doubt that the First Respondent had

breached Principles 2 and 6 as pleaded alleged. Accordingly, the Tribunal found allegation 1.4 as regards the First Respondent and allegation 3.4 as regards the Second Respondent proved beyond reasonable doubt.

42. **Dishonesty in relation to allegation 1.4**

42.1 Mr Gibson submitted that the First Respondent's conduct was objectively dishonest as by the ordinary standards of reasonable and honest people, improperly making a duplicate transfer of £27,322.81 to a suspense account, transferring the £27,322.81 to the Firm's office bank account and utilising this money, in part, to pay the Second Respondent's tax liability to HMRC, would be found by them to be dishonest.

42.2 Further, not only was his conduct in making the transfers to a suspense account and to the Firm's office bank account and utilising the money to pay the Second Respondent's tax liability to HMRC dishonest by the ordinary standards of reasonable and honest people but he must also have been aware that it was dishonest by those standards for the following reasons:-

- He knew that he had transferred a total of £27,322.81 on 31 October 2014 and 4 November 2014 yet knowingly transferred the same amount again which was client money to which he was not entitled;

- He knew that he required the money to pay, in part, the Second Respondent's tax liability urgently which is why he made the transfer.

42.3 The Tribunal determined that, as was submitted, reasonable and honest people operating ordinary standards would find that the First Respondent's conduct, in improperly transferring client money in order to pay the Second Respondent's tax liability, was dishonest. Thus the objective Twinsectra test was satisfied.

42.4 The Transfer was duplicated on the same date as the Second Respondent's tax liability to HMRC was paid. It was clear from the statements provided, that the duplicate transfer was used, in part, to fund that payment; had the transfer not been effected, there would have been insufficient funds in the Respondents' office account to satisfy the payments made. The use of a suspense account was unjustified, there being no logical or legitimate reason for moving money from client account to a suspense account. The Tribunal determined that no honest solicitor would make transfers of that nature so as to then facilitate the use of client money to satisfy personal liabilities. It was inconceivable that the First Respondent was not aware of transferring the same amount within 7 days of this transfer; the Tribunal did not accept the First Respondent's explanation that the transfer was made "in error" – this was a deliberate act to facilitate the HMRC payment. Accordingly the Tribunal determined that the subjective element of the Twinsectra test was satisfied and found beyond reasonable doubt that the First Respondent's conduct was dishonest as pleaded and alleged.

43. **Allegation 1.5 - The First Respondent made an unauthorised transfer from client bank account to office bank account in the sum of £6,000.00 on 25 September**

2014 which was utilised to pay the Firm's professional indemnity insurance, the Firm's rent and the Firm's credit card bill and thereby:

1.5.1 Failed to act with integrity in breach of Principle 2 of the Principles;

1.5.2 Failed to behave in a way that maintains the trust the public places in him and in the provision of legal services in breach of Principle 6 of the Principles;

1.5.3 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

1.5.4 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment to or on behalf of a client.

Allegation 3.5 - The Second Respondent allowed an unauthorised transfer from client bank account to office bank account in the sum of £6,000.00 on 25 September 2015 which was utilised to pay the Firm's professional indemnity insurance, the Firm's rent and the Firm's credit card bill and thereby:

3.5.1 Breached Rule 7 of the SAR by failing to remedy breaches of the SAR promptly on discovery;

3.5.2 Breached Rule 20 of the SAR by withdrawing money from client account when it was not properly required for payment to or on behalf of a client.

43.1 Mr Gibson submitted that in making a transfer of £6,000 from client account that did not relate to the Firm's costs or any disbursements, but instead was made to ensure that the Firm could meet its liabilities (including a credit card payment), the Respondents had breached the SAR, and further the First Respondent had acted in breach of Principles 2 and 6.

43.2 The Second Respondent admitted breaching the SAR as alleged on a strict liability basis; this was accepted by the Applicant.

43.3 The Tribunal noted that but for the transfer, the Firm would have exceeded its overdraft limit, and would not have been able to satisfy liabilities due. Further, the transfer had been made 2 days after a legitimate transfer for costs and disbursements. The Tribunal had no hesitation in finding beyond reasonable doubt that the transfer was improperly made in breach of Rule 20, and as it was not rectified until 18 December 2014, the Respondents had also breached Rule 7 as pleaded, alleged and admitted by the Second Respondent.

43.4 Further, and for the reasons already stated above, the First Respondent had acted without integrity and had failed to maintain the trust the public placed in him and the provision of legal services as alleged and pleaded.

43.5 Accordingly the Tribunal found allegation 1.5 as regards the First Respondent, and 3.5 as regards the Second Respondent proved beyond reasonable doubt.

44. **Dishonesty in relation to allegation 1.5**

44.1 Mr Gibson submitted that the First Respondent acted dishonestly by the ordinary standards of reasonable and honest people by improperly making a transfer of £6,000.00 (part of the £12,000.00 referred to above) in order to ensure there were sufficient funds in the office bank account to cover office payments.

44.2 Not only was his conduct in making the transfer to ensure sufficient funds were in the office bank account to cover payments dishonest by the ordinary standards of reasonable and honest people but he must also have been aware that it was dishonest by those standards for the following reasons:-

- He knew that if he did not transfer the £6,000.00 he would not have been able to meet the Firm's liabilities;

- He knew that he was not entitled to transfer the £6,000.00 as he knew there was no valid reason to do so but knowing this he went ahead and transferred the £6,000.00.

44.3 The Tribunal determined that there was no doubt that reasonable and honest people applying ordinary standards would find that the First Respondent, in transferring money when he had no legitimate reason to do so, and then using that money to satisfy the Firm's liabilities was dishonest. Accordingly, the objective element of the Twinsectra test was satisfied.

44.4 The Tribunal determined that the First Respondent made a transfer using money that was sacrosanct and belonged to his client to pay the indebtedness of his Firm. This was not a mis-posting; it was a deliberate act, with the transfer being effected by the First Respondent. A solicitor of his standing, would know, and indeed he knew that liability to pay for the Firm's insurance was not a client liability, and monies from client account could not and should not be used for that purpose. Thus the subjective element was also satisfied, and the Tribunal found beyond reasonable doubt that the First Respondent's conduct was dishonest as pleaded and alleged.

45. **Allegation 1.6 - The First Respondent made improper transfers from client bank account to office bank account between 6 August 2014 and 30 December 2014 and thereby:**

1.6.1 Failed to run his business or carry out his role in the business effectively and in accordance with proper governance and sound financial and risk management principles in breach of Principle 8 of the Principles.

Allegation 3.6 - The Second Respondent allowed improper transfers from client bank account to office bank account between 6 August 2014 and 30 December 2014 and thereby:

3.6.1 Failed to run his business or carry out his role in the business effectively and in accordance with proper governance and sound financial and risk management principles in breach of Principle 8 of the Principles.

45.1 Mr Gibson submitted that given the financial difficulties that resulted in the commission of the SAR breaches, it was clear that the Respondents had failed to run their practice employing sound financial and risk management principles.

45.2 The Second Respondent admitted allegation 3.6 on a strict liability basis, this being accepted by the Applicant.

45.3 The Tribunal found it to be self-evident that the Respondents had failed to run the Firm and carry out their role in the Firm effectively and in accordance with proper governance and sound financial and risk management principles. There were insufficient monies in the Firm office account to meet the Firm's liabilities as and when they fell due. In order to meet those liabilities, monies were being improperly transferred from client account, payments to third parties were delayed – the First Respondent was borrowing money from his clients, without their knowledge or consent, in order to keep the Firm going. There was insufficient financial planning and foresight; the loan application for payment of liabilities to HMRC was made very late, and with insufficient time for the loan monies to be received before payment had to be made. Accordingly, the Tribunal found allegation 1.6 as regards the First Respondent and 3.6 as regards the Second Respondent proved beyond reasonable doubt as pleaded and alleged. Indeed, it was admitted by the Second Respondent.

Previous Disciplinary Matters

46. None.

Mitigation

47. The First Respondent did not appear and was not represented; no mitigation was received from him or advanced on his behalf.

48. Mr Higgins submitted that the Second Respondent accepted, and had always accepted that serious breaches of the SAR had occurred; whilst strictly speaking he was responsible for the breaches, he was not culpable for them. Once the difficulties with the accounts became known to him, he acted quickly and decisively to remedy the situation, and to ensure that no client suffered any financial loss. To that end the Second Respondent contributed £57,000 to the business, with the First Respondent contributing £25,000. In October 2015, the Second Respondent cashed in his pension so that he could, amongst other things, settle further liabilities arising out of the Firm. He took control and responsibility for "sorting out the horrific mess".

49. The Second Respondent's talents did not lay in management or administration of the Firm, but in fee earning; he left the financial and other management aspects to the First Respondent, whom he trusted to carry out those functions diligently and in accordance with the Rules. He reposed an appropriate amount of trust in the First Respondent to run the accounts properly, and was unaware that this was not the case.

50. Whilst the Second Respondent was aware of the cash flow problems and indebtedness to HMRC, he believed that that situation had been resolved with a series of loans, funds from which had been used to pay HMRC, and was unaware until much later, that payments had actually been made using client money.

51. The Second Respondent had, it was submitted, borne the greater responsibility, both financially and practically, when dealing with the fallout of the difficulties suffered by the Firm. He no longer had any pension, savings or income as a result of restoring the client balances and the closure, by way of intervention, of the Firm.

Sanction

52. The Tribunal had regard to the Guidance Note on Sanctions (4th Edition December 2015). The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction, it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances.

53. The Tribunal firstly considered the seriousness of the First Respondent's proven conduct. The Tribunal found him to be completely culpable for the breaches; the misconduct having arisen as a direct result of his deliberate and conscious actions to improperly utilise client money for the benefit of the Firm. The First Respondent was motivated by his need to satisfy the HMRC, and to that extent, the gain was personal. His actions were not spontaneous, but were planned. He was the guardian of client money, a position of trust; he abused that trust each and every time he used client money for his own purposes. He was an extremely experienced solicitor, who, by his actions, had caused great harm to the repute of the profession and the public. The Tribunal had found multiple allegations of dishonesty proved against the First Respondent. The Tribunal considered the comments of Coulson J in Solicitors Authority v Sharma [2010] EWHC 2022 Admin ("Sharma"):

> "34. there is harm to the public every time 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"."

54. The First Respondent had caused immense harm and damage to the reputation of the profession. Not only had he acted dishonestly, but that dishonesty arose from the improper use of client money. As a solicitor, the First Respondent would be expected to always act in his clients' best interests and protect their position. Whilst the Tribunal accepted that the First Respondent had repaid the improperly taken funds his dishonesty lay in his utilisation of the funds themselves; repayment of the improperly taken funds was mitigation only.

55. Not only was the First Respondent's conduct aggravated by his proven dishonesty, but further by the serious and continuing nature of his misconduct which was deliberate and calculated. The Tribunal determined that the First Respondent, given his extensive experience, knew that his conduct was in material breach of his obligation to protect the public and the reputation of the profession. The Tribunal noted that the First Respondent had a previously unblemished career, and was not uncooperative during the investigation. He had personally contributed towards reducing the deficit on client account.

56. Given the serious nature of the allegations, the Tribunal considered and rejected the lesser sanctions within its sentencing powers, such as no order, a reprimand or restrictions. The Tribunal had regard to the case of Bolton v Law Society [1994] 2 All ER 486 in which Sir Thomas Bingham stated:

> "….Lapses from the required standard (of complete integrity, probity and trustworthiness)….may….be of varying degrees. The most serious involves proven dishonesty….In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced by the solicitor, ordered that he be struck off the roll of solicitors."

57. The Tribunal did not find any of the circumstances (and indeed none were submitted) that were enough to bring the First Respondent in line with the residual exceptional circumstances category referred to in the case of Sharma. The Tribunal decided that in view of the serious nature of the misconduct, in that it involved numerous instances of dishonesty, the only appropriate and proportionate sanction was to strike the First Respondent off the Roll of Solicitors.

58. The Tribunal found the Second Respondent to be strictly culpable for the breaches by virtue of Rule 6 of the SAR, which provided that as a partner in the Firm, the Second Respondent was responsible for ensuring compliance with the Rules. The Second Respondent had relied on the First Respondent, and had not fully appraised himself of the financial position of the Firm. He had previously been involved in ensuring that the financial administration of the Firm was secure, and he was aware that there were financial difficulties – as a partner, he should have taken a much more active role in the financial affairs of the Firm. The mismanagement of the Firm was caused, in part, by the Second Respondent's failure to engage in the financial management of the Firm. The Tribunal noted that the Second Respondent had used a substantial amount of his personal funds to ensure that clients did not suffer as a result of the misconduct, those payments being in excess of the contribution made by First Respondent, who was the author of the misconduct. It was commendable that the Second Respondent had continued to work at the Firm until the intervention, and that under his stewardship there were no further SAR breaches. He had demonstrated clear insight into his conduct, and had cooperated throughout the investigation and proceedings.

59. The Tribunal considered that the Second Respondent's misconduct was too serious for no order or a reprimand in that the seriousness of the breaches was not at the lowest level; the protection of the public and the reputation of the profession demanded a higher sanction.

60. The Tribunal determined that the appropriate and proportionate sanction for the Second Respondent was a Fine in the sum of £10,000. The Tribunal did not deem the Second Respondent to pose a risk to the public such that any restrictions should be placed on his ability to practice.

Costs

61. Mr Gibson made an application for costs in the sum of £23,057.57. This amount included adjustments for the shortened hearing length and travel expenses. He submitted that the costs had been reasonably and properly incurred. Whilst he made no submissions as to whether the costs order should be joint, several or apportioned, Mr Gibson submitted that the order should be immediate and should not be deferred.

62. Mr Higgins submitted that the order should be a several one, the Second Respondent having already shouldered a far greater financial burden than the First Respondent. Further, the Tribunal, in its findings, had found the First Respondent to be the more culpable. No submissions were made as to quantum, but it was submitted that the costs order should be just and equitable as between the parties.

63. The Tribunal determined that the costs claimed were proportionate and reasonably incurred. Further, it determined that it was appropriate, just and equitable in the circumstances to make separate and several costs orders against the Respondents with a division of costs of 75% to the First Respondent (who was more culpable) and 25% to the Second Respondent. Accordingly, the Tribunal Ordered that the First Respondent pay costs of £17,293.18 and the Second Respondent pay costs of £5,764.39. No statement of means had been submitted by the First Respondent, and no representations had been made on behalf of the Second Respondent in relation to deferring the costs order. In the circumstances, the Tribunal made the costs order immediately enforceable.

Statement of Full Order

64. The Tribunal Ordered that the Respondent, RICHARD MARKHAM THOMPSON, 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 £17,293.18.

65. The Tribunal Ordered that the Second Respondent, solicitor, do pay a fine of £10,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,764.39.

Dated this 21st day of October 2016
On behalf of the Tribunal

A.E. Banks
Chairman