

IN THE MATTER OF STELLA PETER and KATE UMEALU ECHEAZU, solicitors and

IN THE MATTER OF STELLA PETER, KATE UMEALU ECHEAZU and
FRANK NNAMDI EZUMA, solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr A H B Holmes (in the chair)
Mr A G Gibson
Mr S Marquez

Date of Hearing: 12th January 2010

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of The Law Society by Stuart Roger Turner, Solicitor Advocate, of Lonsdales Solicitors, 7 Fishergate Court, Fishergate, Preston PR1 8QF on 22nd April 2008 that Stella Peter of 456 Kingsland Road, London E8 4AE, solicitor, and Kate Umealu Echeazu of 2nd Floor, 59A Wanstead High Road, London E11 2AE, solicitor, might be required to answer the allegations contained in the statement which accompanied the application and that such Order might be made as the Tribunal should think right.

An application was duly made on behalf of The Law Society by Stuart Roger Turner on 8th May 2009 that Stella Peter of 3 Derwent Avenue, East Barnet, EN4 8LU, Kate Umealu Echeazu of 15 Loewen Road, Grays, Essex, RM16 4UU, and Frank Nnamdi Ezuma of 28 Livermore Road, London E8 4EZ, solicitors, might be required to answer the allegations contained in the statement which accompanied the application and that such Orders might be made as the Tribunal should think right.

The two sets of proceedings were consolidated by order of the Tribunal made on 16th June 2009.

The allegations contained in the application of 28th April 2008 were as follows namely that Stella Peter (the First Respondent) and Kate Umealu Echeazu (the Second Respondent) were each guilty of misconduct in that they:-

1. Misrepresented to their lender clients the purchase price of properties in conveyancing transactions.
2. Failed to report to their lender clients when their mortgage advances were used for 100% or more of the purchase price.
3. Acted in breach of Practice Rule 1(a) and/or 1(c) and/or 1(e) and not in accordance with the Council of Mortgage Lenders Handbook (6.3) in that they failed to report at all or in writing buyer incentives to lender clients.
4. Failed to report to lender clients that the seller had not owned or been the registered owner of a property for more than six months.
5. Failed adequately to supervise members of their staff.

The allegation contained in the application dated 8th May 2009 against Frank Nnamdi Ezuma (the Third Respondent) was that he was guilty of professional misconduct in that:-

6. Contrary to Rule 22 of the Solicitors Accounts Rules 1998, (SAR), he allowed a cash shortage of at least £971,770 to arise on client account by making an improper payment or payments from client account. This was an allegation of dishonesty.

Against the First, Second and Third Respondents that each were guilty of professional misconduct in that:-

7. Contrary to Rule 6 SAR the books of account were not in compliance with the Solicitors Accounts Rules.
8. Contrary to Rule 7 SAR they failed to remedy promptly upon discovery a breach of the Rules.
9. They failed to comply or delayed in complying with undertakings or failed to ensure compliance with undertakings, contrary to Rule 10.05(1) and (2) of the Solicitors Code of Conduct 2007 (the Code).
10. They failed to reply to letters from the SRA contrary to their obligation pursuant to Rule 20.03 of the Code.

The applications were heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS on 12th January 2010 when Stuart Roger Turner appeared as the Applicant, the First Respondent was represented by Mr Owen Roach of Counsel and the Second and Third Respondents did not appear and were not represented.

On 10th September 2009 a division of the Tribunal had ordered that substituted service be effected upon the Second and Third Respondents who had not engaged in the proceedings and whose whereabouts were unknown.

The evidence before the Tribunal included the admissions of the First Respondent to allegations 2, 3, 4, 5, 9 and 10.

At the conclusion of the hearing the Tribunal made the following Orders:-

The Tribunal Orders that the Respondent, Stella Peter of 3 Derwent Avenue, East Barnet, EN4 8LU, solicitor, be Struck Off the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,000.00.

The Tribunal Orders that the Respondent, Kate Umealu Echeazu of 15 Loewen Road, Grays, Essex, RM16 4UU, solicitor, be Struck Off the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00.

The Tribunal Orders that the Respondent, Frank Nnamdi Ezuma of 28 Livermore Road, London, E8 4EZ, solicitor, be Struck Off the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £9,000.00.

The facts are set out in paragraphs 1-40 hereunder:-

1. The First Respondent, born in 1958, was admitted as a solicitor in 2000. The Second Respondent, born in 1950, was admitted as a solicitor in 2001 and the Third Respondent, born in 1963, was admitted as a solicitor in 2003. The names of all three Respondents remained on the Roll of Solicitors. At the times material to allegations 1-5 the First and Second Respondents were partners at Phoenix Nova Solicitors of 456 Kingsland Road, London E8 4AE. At the times material to the allegations contained in the application dated 8th May 2009 all three Respondents were partners at Phoenix Nova Solicitors. The First and Second Respondents had practised as partners since February 2001. The Third Respondent became a partner in June 2006.

Allegations 1 – 5 against the First and Second Respondents

2. On 7th September 2006 a Forensic Investigation Officer (FIO) of The Law Society commenced an inspection of the books of account and other documents of Phoenix Nova Solicitors. A copy of the resulting report dated 24th January 2007 was before the Tribunal. The report noted the matters set out below.
3. The FIO reviewed ten conveyancing files.

Allegation 1

4. The FIO found on all ten files that the firm had completed transfers and stamp duty land tax forms showing the gross purchase price of each property (without deduction of the incentives given by the seller) as opposed to the actual price (gross price less the incentives given by the seller).

Allegation 2

5. In three of the ten files reviewed by the FIO it was seen that the mortgage advance alone funded the payment of the purchase price and in the remaining transactions reviewed, the mortgage advances exceeded the purchase price of each property and the surplus money was applied towards the payment of legal fees, stamp duty and other costs associated with the transaction.

Allegation 3

6. The FIO identified that in seven of the transactions reviewed incentives were offered, amounting to between 5.25% and 15.5% of the gross purchase price of the properties, which were not reported to the lender client.
7. The FIO exemplified two transactions:-

Miss CN

8. Following the mortgage offer of £121,837 from Mortgage Express the firm failed to notify the lenders that the actual purchase price on completion was £111,028.25. Additionally, the Certificate of Title stated a purchase price of £128,258 whereas the actual purchase price payable on completion was £111,028.25. The remainder of the mortgage advance funded the payment of stamp duty land tax and the firm's costs, in addition the mortgage advance also funded a payment of £8,999.79 to a third party in the name of Salami.

Miss McS

9. Following the mortgage offer of £171,172.00 from Abbey National plc the firm failed to notify the lender client that the actual purchase price on completion was £152,057.75. Additionally, the Certificate of Title stated a purchase price of £179,950 and not the actual price of £152,057.75. The firm also failed to inform the lender client that incentives were given to Miss McS totalling 15.5% of the gross price. The mortgage advance funded the payment of the stamp duty land tax and the firm's costs. In addition, the mortgage advance also funded a payment of £14,959.55 to a third party in the name of Salami.
10. The FIO did identify three property transactions where incentives between 5.2% and 16.6% of the gross price were reported, but only by telephone, to the lender clients.
11. On the file of AJ it was noted that the firm had telephoned to inform the lender client of the £39,950 incentive given to their client, Mr AJ. There was no evidence that this had been followed up or ever given to the lender client in writing. Section 2.1 of the Council for Mortgage Lenders Handbook (CML) requires communications with the lender to be in writing.

Allegation 4

12. The FIO identified three matters where the Respondents had failed to inform the lender client that the seller had not owned or been the registered owner of the property for more than six months. Section 5.1 of the CML Handbook requires this information to be reported to the lender.
13. The FIO highlighted the example of Mr JZ where following a mortgage offer of £162,365.63 from Alliance and Leicester plc, the firm failed to notify them that the actual purchase price on completion was £152,286.25. In addition, the Certificate of Title dated 4th April 2006 indicated a purchase price of £173,750.00 and not £152,286.25. The firm failed to notify the lender client of the incentives given to Mr JZ totalling 12.3% of the gross price and failed to notify the lender that the seller had not owned the property for at least six months.

Allegation 5

14. On 19th February 2007 The Law Society wrote to the First and Second Respondents seeking their explanation as to the findings of the FIO.
15. The Respondents' solicitor replied on 28th March, stating amongst other things, that the problems arose due to his clients' failure properly to supervise their staff.

Allegations 6-10

16. On 30th January 2008 the First and Second Respondents through their solicitors reported to the SRA a shortage on client account and set out information regarding the alleged misconduct of the Third Respondent.
17. On 4th February 2008 an inspection of the firm's books of account was commenced and a copy of the resulting report dated 29th February 2008 was before the Tribunal.
18. On 31st March 2008 the Professional Regulation Adjudication Panel of the Solicitors Regulation Authority (SRA) resolved to intervene in the practice of the Respondents. The Panel was satisfied there was reason to suspect dishonesty on the part of the Third Respondent.

Allegations 6 - 8

19. The First and Second Respondents told the FIO that they had each flown out to Nigeria on 11th and 14th December 2007 respectively. They both had separately telephoned on 17th December to speak to the Third Respondent but were told that he had not been at the office since 13th December. The First Respondent had received enquiries from clients on her mobile telephone whilst in Nigeria. She had telephoned the firm's bank to be notified that the accounts of the firm had been frozen. She returned to the office on 7th January 2008 and spoke to the Second Respondent on that day who attended the office on 14th January 2008 having returned to the UK on 12th January.

20. The FIO found that the books of account were not in compliance with the SAR because of an improper payment from client account on 28th November 2007 of £970,167. This caused a cash shortage on the client account which was still in existence at the time of his visit on 4th February 2008.
21. The cause of the shortage related to a remortgage transaction conducted by the Third Respondent. The First Respondent said details of the transaction came to light when she read a letter from Cheltenham and Gloucester Bank, (C & G), dated 11th December 2007. In essence, the letter enquired why mortgage advance funds were requested without a priority search having been lodged at the Land Registry and when another firm of solicitors had lodged a search 26 days before the Certificate of Title had been submitted to them. Further enquiries by way of Office Copies of 7th February showed that the registered proprietors were not the client for whom the Third Respondent was remortgaging and there was a charge registered on the property in favour of Barclays Bank.
22. The Respondents' firm had however sent to C & G a Certificate of Title on 27th November which prompted the mortgage advance of £971,750 being sent to the firm's client bank account. On 28th November the Third Respondent made a payment of £970,167.53 to Isaac and Isaac International Holdings Limited (Isaac). Further, on 13th December 2007, £971,750 was sent back to C & G by him thus creating the shortage.
23. The First and Second Respondents denied knowledge of the payments made by the Third Respondent and believed it to be suspicious and improper.
24. On 28th February the FIO received a call from the Third Respondent who said he was in Nigeria. He said he was aware that the First and Second Respondents had advised him the firm was being wound down but was not aware of any problems. He denied having conduct of the matters and said he would try to return to the UK on 1st or 2nd March 2008.
25. On 5th March 2008 the First, Second and Third Respondents were sent a copy of the Forensic Investigation Report (FI Report) and asked for their comments on it. The First Respondent replied on 17th March 2008 making it clear that the response was on behalf of her alone. No responses had been received from the Second and Third Respondents.

Allegations 9 and 10

BS Solicitors

26. On 15th February 2008 BS Solicitors wrote to the SRA complaining that on a matter in which they acted for a purchaser no form END1 had been supplied following simultaneous exchange and completion on 25th September 2007 and the balance of purchase monies of £237,500 being transferred. The Respondents' firm acted for the vendor with the Third Respondent having conduct of the sale. BS complained of a breach of Rule 10.05 (1) and (2) of the Code as the Respondents had failed:-

1. To discharge the charge dated 22nd December 2004 in favour of Mortgage Express.
 2. To provide them with an END1/DS1 (proof of discharge).
 3. To comply with their undertaking of 14th September 2007 contained within the Replies to the Requisitions on Title.
27. The consequence of the Respondents' failures was that BS were prevented from registering both their purchaser client's interest and their lender client's interest on the property in question. Numerous letters were sent to the Respondents but nothing had been done.
28. The SRA wrote to the Third Respondent on 4th March requesting a reply by 18th but none was received despite a reminder being sent on 18th March 2008. On 28th March the SRA telephoned the firm and spoke to the First Respondent who said that the Third Respondent was out of the country. In view of the First Respondent's responsibility as a partner, the SRA informed her that they would write to her and did so on 28th March.

K Ltd

29. On 6th March 2008, K Ltd complained to the Legal Complaints Service (LCS) in relation to a property purchase they had made the previous July. Their complaint was that the vendor's solicitors failed to comply with an undertaking given to their solicitors that all mortgages and/or other charges would be discharged on or before completion.
30. On 30th April 2008 the SRA wrote to each of the Respondents seeking their explanation in relation to the complaint.
31. The undertaking was contained within the Replies to Requisitions on Title in which the Third Respondent confirmed that all mortgages and/or other charges would be discharged on or before completion. The Third Respondent signed the Replies to Requisitions on Title on 23rd July 2007. The consequences for K Ltd of the failure to honour the undertaking were set out in their letters to their own solicitors and the SRA, copies of which were before the Tribunal.
32. Only the First Respondent replied, by letter of 10th June 2008. The Second and Third Respondents failed to reply and so were sent reminder letters. No response had been received from them.

Bank of Scotland PLC

33. On 8th April 2008 D Solicitors acting on behalf of the Bank of Scotland submitted a complaint to the SRA. D Solicitors' client had advanced the sum of £313,043.00 to allow DPH, a borrower, to purchase a property in London. The firm, in particular the Third Respondent, acted for both DPH and the Bank of Scotland. The Bank of Scotland advanced the sum in reliance upon the Certificate of Title signed by the

Third Respondent on 5th November 2007. The Certificate of Title contained an undertaking referred to by reference to Rule 6(3) SPR.

34. The mortgage advance moneys of £313,043.00 were not used for the purchase of a property. Nor were any mortgage payments ever made.
35. The Bank of Scotland upon realising that their charge had not been registered instructed D Solicitors to investigate the matter. On 7th April 2008 D Solicitors were contacted by estate agents acting on behalf of the registered proprietor. It was confirmed that the vendor had agreed to sell the property to DPH. However, the matter did not complete and at no point did the vendor or his estate agents have contact with the Respondents' firm.
36. On 26th June 2008 the SRA wrote to the Respondents seeking their explanation, although the letter apparently intended for the First Respondent was inadvertently sent to the address of the Second Respondent.

Mrs DG

37. On 5th March 2008 DB Solicitors submitted a complaint on behalf of their client Mrs DG. The Second Respondent had had conduct of Mrs DG's matter.
38. Mrs DG had raised a sum of money to acquire a business lease of shop premises in Finchley by obtaining a secured bridging loan on her own property. The sale was completed in March 2007 and at the time of making the complaint the lease had still not been registered. The landlords re-entered and took possession of the shop premises and the money invested by Mrs DG was lost. Mrs DG's complaint, amongst other things, was that she was not provided with a client care letter and that the Respondents failed to recognise there was an actual or potential conflict of interest between her and the other proposed assignees of the lease. She was not advised to take independent advice.
39. The SRA wrote to the Second Respondent on 23rd April seeking her explanation. A reminder letter was sent on 9th June 2008. No reply was received.
40. On 17th June 2008 DB Solicitors supplied the SRA with further information confirming that Mrs DG was a client of the Respondents' firm.

The Submissions of the Applicant

41. The First Respondent had cooperated with the Applicant and had communicated throughout the proceedings. The Second and Third Respondents had played no part at all. Dishonesty was not alleged against the First or Second Respondents but was alleged against the Third Respondent. The Tribunal had before it the witness statement of the First Respondent dated 6th January 2010.
42. The allegations when taken together were at the highest end of the scale. There had been systematic breaches of rules by the firm. All the allegations revolved around conveyancing transactions. The Respondents had failed to run their business in a professional way, including, as referred to in the First Respondent's letter to the SRA

of 17th March 2008, leaving blank CHAPS forms to be signed by a third party and in the absence of any authorised signatory.

Allegations 1 - 5

43. The First Respondent had denied allegation 1. The Applicant submitted however that the allegation was substantiated. The purchase price had been misrepresented by the Respondents. Had the lenders known that they were lending more than 100% of the purchase price it was unlikely that they would have allowed the purchases to proceed.
44. The Tribunal was referred to the First Respondent's witness statement of 6th January 2010 in which she said that the issue of whether to put the discounted price or the full purchase price on the Certificate of Title had always been contentious. The Tribunal was further referred to the letter from her solicitor to the SRA dated 28th March 2007 making the same assertion. The First Respondent said that she was required to put the gross price as the incentives were subject to a time constraint. She extrapolated from that that the issue of consideration arose and therefore the gross value should be stated on the Certificate of Title. She further asserted that the FIO had been unsure of the position and that she had contacted The Law Society's Ethics Department by telephone and email.
45. While this was raised as a defence on behalf of the First Respondent the fact remained that the actual purchase price was not the price shown on the contract. Further, no evidence or authority had been provided by the First Respondent to support the point on consideration. There was nothing to show that she had followed up contact she said she had made with the Ethics Department.
46. The Applicant submitted that the First Respondent's position was fundamentally wrong. It would be unusual for a lender to lend moneys secured on a property with a value less than the amount being lent.
47. Further, despite the requirements of Section 6.3 of the CML Handbook there was no evidence on the ten files reviewed that the Respondents had notified their lender client of any difference in the purchase price.
48. In addition to the breach of the CML Handbook, the Applicant submitted that there had been a failure to observe the Green Card warning on property fraud. The Green Card stated that the indicators or signs to watch for included misrepresentation of the purchase price and advised solicitors to discuss with their client any aspects of the transaction which worried them.
49. The Tribunal was referred to the schedule appended to the FI Report of 24th January 2007 and in particular to the difference between the contractual price and the actual price in the five cases set out in the schedule. The First Respondent had made reference to an instruction from a lender not to inform them if there was a discount of less than 5% but in all the cases in the schedule the discount was more than 5% and in one case it was as high as 16%.

50. It was clear from the ten transactions reviewed that allegations 1 - 3 were substantiated. Similarly allegation 4 was substantiated on the basis of the information contained in the FI Report
51. Allegation 5 had been admitted through the First Respondent's then solicitor who had written that they were using unqualified staff and that there were supervision issues.

“Lack of adequate supervision has been the major cause of the problems found on the files in question. Even though this is inexcusable, the issue has since been rectified”
52. Allegation 6 was made against the Third Respondent alone and was an allegation of dishonesty. A sum of almost £1million was missing on one of the transactions of which the Third Respondent had had conduct. The Applicant submitted that by applying the well recognised combined test of dishonesty set out in the case of *Twinsectra Ltd v Yardley and Others* [2002] UKHL 12 the Third Respondent's conduct had been dishonest.
53. The circumstances surrounding the case were surprising to say the least. It appeared to have been the intention of the Third Respondent to raise £971,000 by effectively creating a scenario of a remortgage. It could be seen however from the Office Copy entries that third parties, with third party lenders, were in fact purchasing that property. Looking at the facts of the case it would be clear that honest people would know the Third Respondent's conduct was wrong and by the same standard the Third Respondent knew that what he was doing was wrong in paying out the same amount of money to two parties, namely, to Isaac and to C&G thus leaving the shortage on client account.
54. In relation to allegations 7 and 8 all three Respondents were liable by virtue of the SAR.
55. The First and Second Respondents had explained to the SRA that they were not in a position to replace the shortage; nevertheless, the allegations still stood.
56. In April 2008 there had been an intervention into the firm, the Professional Regulation Adjudication Panel of the SRA being satisfied there was reason to suspect dishonesty on the part of the Third Respondent. The Tribunal's attention was drawn to the claims made on the Compensation Fund in respect of the firm between that date and December 2009.
57. In relation to allegations 9 and 10 the Applicant relied on the four separate complaints.
58. Undertakings were a fundamental part of the work of the profession particularly in conveyancing transactions. It was crucial that if solicitors gave an undertaking they complied with it. The consequences of the Third Respondent's failure to do this were set out in the documentation and were particularly striking in the example of K Ltd. In this matter the seriousness of failure to comply with undertakings came to light with stark effect including the need for K Ltd to take out bridging finance at higher

interest rates, with the consequences set out in their correspondence. In terms of the reputation of the profession this was of damaging effect to the highest extent.

59. The firm had been poorly run and the consequences spoke for themselves. There had been systematic breaches, clients had been inconvenienced and lost money, businesses had paid punitive interest rates and lender clients had not been aware of the true circumstances. The actions of the Third Respondent had caused a cash shortage of almost £1million.

The Submissions on behalf of the First Respondent

60. The Tribunal had before it documentation relating to the illness of the First Respondent's daughter. Counsel on behalf of the First Respondent expressed the First Respondent's apologies for her non attendance which was also related to her own poor health and financial constraints. The First Respondent was currently resident in Nigeria.
61. The First Respondent admitted allegations 2 - 5 but took some issue with allegation 1. Across the profession there was no specific blueprint on what should be done in respect of entries on the Certificate of Title. The issue as to whether the discounted price or the gross price should be used had always been contentious. The First Respondent had sought clarification from the FIO but he had not given her any information on this.
62. The First Respondent had at no point done anything she thought was wrong. She was only acting in accordance with what she perceived to be the correct principle at the time. The Tribunal was asked to infer that she had done nothing wrong. If she had done something wrong this was due to a lack of understanding and not to any wilful conduct on her part.
63. The First Respondent had been out of the country at the time of the events which gave rise to allegation 6. The Tribunal was referred to the First Respondent's witness statement of 6th January 2010 in which she wrote:-

“I now wish to deal with the denial in paragraph 2 above. By a letter dated 28th March 2007 my previous solicitors explained to the SRA the circumstances leading to the allegations against me. I would respectfully invite the Tribunal to read the said letter. I was on holidays when these funds were transferred out of the client account. I took steps to remedy the breach on my return from holidays by immediately informing our insurers and the Solicitors Regulation Authority.”

The First Respondent was clearly someone who was showing responsibility for actions actually taken during her absence but for which she knew, based on association, she might have been held liable.

64. While the First Respondent admitted she was jointly liable in respect of allegations 9 and 10 she stated categorically that these allegations related to the Second Respondent. At that time there had been a breakdown in relationships within the partnership and the First Respondent was having difficulty supervising her partners.

Further, her daughter's illness had diverted her attention from issues which ought to have been addressed within the firm.

65. The First Respondent admitted that there had been irregularities and said that she had staff who were untrained and poorly supervised. She had been dealing with her sick daughter and looking after her fatherless son, which did not make the situation easier for her. Against that backdrop she asked the Tribunal to be lenient with her. The Tribunal was referred to the factors which the First Respondent asked the Tribunal in her witness statement to take into consideration and in particular to the following:-

“(a) I am over 50 years of age and have enjoyed an unblemished practice life for over 20 years until I entered into the Partnership of Phoenix Nova Solicitors.

(b) I am a widow and I have as my dependant, a teenage daughter who suffers from sickle cell anaemia. I have attached to the statement, testimonials written by my son.

(c) I regret that I am unable to attend this hearing due to my failing health and financial constraints.”

66. One of the key characteristics of the First Respondent had been the fact that she had been very cooperative throughout the proceedings. Indeed, she had gone a step further and had sought to take her own name off the Roll of Solicitors. She did not wish to manage a firm again. The Tribunal was invited to take into account the whole of the First Respondent's witness statement.
67. The Tribunal was further referred to the references in support of the First Respondent all of which said that she was a woman of good credibility.
68. The First Respondent was now 52 years old. If she was no longer able to practise as a solicitor she would have difficulty meeting her financial commitments.
69. The Tribunal was invited to be lenient and consider endorsing the First Respondent's practising certificate so that she could work under supervision.
70. Counsel on behalf of the First Respondent said that allegation 10 did not specifically apply to the First Respondent although she accepted that she might be jointly liable. The First Respondent had not addressed this specifically in her witness statement and unfortunately she was unable to be present to give more detailed instructions.

Submissions on Costs

71. The Applicant sought his costs in accordance with the schedule served on Counsel for the First Respondent that day. It had not been seen by the Second and Third Respondents, nor by the First Respondent personally. The Applicant invited the Tribunal to make a summary assessment, although it was accepted that enforcement would be difficult. The Applicant made an adjustment to the schedule to reflect the shorter time than anticipated spent on advocacy. The Applicant said that when parties did not participate this increased the time it was necessary to spend in preparation.

72. Counsel for the First Respondent took some issue with the time spent in preparation and the cost of travel. Counsel said that the First Respondent was currently unemployed and had no financial means. She was living in Nigeria with family and friends although would return the UK at some point.

The Findings of the Tribunal

73. The Second and Third Respondents had not attended the Tribunal or engaged with the proceedings and the Tribunal had therefore treated all the allegations against the Second and Third Respondents as denied.

Allegations 1 - 5

74. The First Respondent had admitted allegations 2 - 5. She had denied allegation 1. The Tribunal considered carefully the arguments put forward by and on behalf of the First Respondent, but was satisfied that the allegation was substantiated. Clearly, the purchase prices in the files reviewed had been misrepresented to the lenders. The lenders had been unaware of the true purchase prices. The schedule to which the Tribunal had been referred by the Applicant showed clear and substantial discrepancies. The Tribunal was satisfied that the allegation was substantiated against both First and Second Respondents and was satisfied on the basis of the documentation before it that allegations 2 – 5, which the First Respondent had admitted, were also substantiated against the Second Respondent.

Allegation 6 against the Third Respondent alone

75. The Third Respondent had not attended the hearing or made any representations to explain his conduct. The position was clearly set out in the documentation and the Tribunal accepted the submissions of the Applicant in relation to dishonesty. Applying the tests set out in the case of *Twinsectra v Yardley* the Tribunal was satisfied that allegation 6 was substantiated against the Third Respondent and that his conduct had been dishonest.
76. The First Respondent had denied allegations 7 and 8 on the basis that she had been out of the country at the time that the funds were transferred out of client account. The same argument would apply to the Second Respondent although she had not made any representations. The First and Second Respondents were, however, partners in the firm. It was undeniable that the books of account were not in compliance with the SAR and the allegation was substantiated against all three Respondents as partners in the firm. Similarly, all three partners were responsible for remedying breaches of the SAR Rules promptly. The breach had not been remedied and the allegation was therefore substantiated. The issue of the level of culpability was a matter of mitigation rather than defence. It was right to acknowledge the efforts the First Respondent had made by way of notification and that she had not been in a position to rectify the shortage.
77. Allegation 9 was substantiated against all three Respondents on the basis of the documentation. The First Respondent had said that she was not personally handling the matters but the breach of undertakings undeniably occurred and she was liable as a partner.

78. In relation to allegation 10, the Tribunal found the allegations substantiated against the Second and Third Respondents. In relation to the First Respondent, the correspondence to which the Tribunal had been referred and to which the First Respondent had allegedly not replied had been addressed to the Second Respondent although the salutation had been to the First Respondent. There was no evidence before the Tribunal that correspondence had been sent to the First Respondent which she would have received and to which she had not replied. Allegation 10 was not substantiated against the First Respondent.

Previous appearance of the First and Second Respondents before the Tribunal

79. On 1st March 2007 the following allegations were substantiated against the First and Second Respondents and another:-
1. That the Respondents posted “dummy” credit entry on client account ledgers to avoid debit balances showing where debit balances had occurred, contrary to Rule 22(5) of the Solicitors Accounts Rules 1998;
 2. That the Respondents allowed overpayments from client bank account totalling £35,563.52, contrary to Rule 22(5) of the Solicitors Accounts Rules 1998;
 3. That the Respondents allowed an over-transfer or over-transfers of money from client to office account totalling £568.77, contrary to Rule 22(5) Solicitors Accounts Rules 1998;
 4. That the Respondents allowed a payment of £413.60 from client account which had not been allocated to any client ledger account, contrary to Rule 32(3) Solicitors Accounts Rules 1998;
 5. That the Respondents failed to pay and/or delayed in paying Counsel’s fees relating to work done under the Firm’s Legal Services Commission Immigration Contract, contrary to rule 21(2)(c) Solicitors Accounts Rules 1998;
 6. That the Respondents failed to remedy the breaches of the Solicitors Accounts Rules promptly upon discovery, contrary to Rule 7 Solicitors Accounts Rules 1998.
80. The following allegations were substantiated against the Second Respondent alone namely that she had been guilty of conduct unbefitting a solicitor in that she:-
7. Failed to act in a lender client’s best interest by failing to inform them of a prior registered charge on a property they were lending money on;
 8. Failed to provide a proper standard of work by failing to maintain priority for a lender client in a conveyancing transaction.

81. The Tribunal on that occasion said as follows:-

- “63. The Tribunal noted that no dishonesty had been alleged against any of the Respondents.
64. The Tribunal has given the Respondents credit for their admissions and their explanations. The Tribunal has also given the Respondents credit for the steps they have taken to put matters right and ensure that errors of the type disclosed in the IOs’ Report might not occur again in the future.
65. The Tribunal recognises that the Respondents had in reality been duped as to the correctness of their handling of client money and keeping of accounts by a bookkeeper who had devised a system of overriding the firm’s computerised accounting system thereby preventing that system from making it clear that an improper debit balance existed on a particular client ledger. Because of the way the bookkeeper had worked the “dummy credits” into his reconciliations, the system which he had adopted had not been apparent on the face of the accounts. It appeared that the IOs did not spot the bookkeeper’s activities and in those circumstances the Respondents could not be severely criticised for not realising themselves what had been going on.
66. The Tribunal recognised that the Respondents had suffered a series of difficulties not of their own making.
67. The Tribunal believed that the Respondents had suffered from an unhappy episode and through their own recognition of the difficulties they faced and the great steps they had taken not only to put matters right but to ensure that such problems would not occur again in the future, the Tribunal was able to adopt a lenient stand. In doing so the Tribunal wishes to make it plain that breaches of the Solicitors Accounts Rules and any handling of clients’ money which is not strictly in accordance with the Solicitors Accounts Rules and runs contrary to the requirement that a solicitor exercises a proper stewardship over clients’ money entrusted to him, is at all times to be regarded with the utmost gravity.
68. The Tribunal recognised that the Respondents, coming from a Nigerian background, might not easily be able to gain experience in established firms and that as a result gaining the necessary experience was a difficult process. The Tribunal was also conscious of the laudable efforts that the Respondents had made to overcome their difficulties. In the particular and somewhat unusual circumstances of this matter the Tribunal considered it both appropriate and proportionate to do no more than impose a Reprimand upon each of the Respondents...and to pay one third each of the agreed costs”

82. At the hearing on 12th January 2010 the Tribunal was satisfied that, having found dishonesty by the Third Respondent, the appropriate penalty was to strike his name off the Roll of Solicitors.
83. In considering the appropriate penalty in respect of the First and Second Respondent the Tribunal had considered their previous appearance before the Tribunal and had listened carefully to the mitigation put forward by Counsel on behalf of the First Respondent. It was the duty of the Tribunal to have particular regard to the public interest. Notwithstanding that there had been no allegation or finding of dishonesty against the First and Second Respondents in these proceedings the public interest was paramount. Solicitors could not allow themselves to be involved in running a practice in the way the Respondents had done. The First and Second Respondents had been partners in a firm in which there had been many and systemic failures. The consequences of those failures for the public in particular, but also for the profession, were catastrophic. The Tribunal gave the First Respondent credit for the fact that she had engaged in the proceedings, but the allegations substantiated against the First and Second Respondents had been put by the SRA as being at the highest end of the scale and the Tribunal accepted that submission. After careful consideration, the Tribunal was satisfied that the names of the First and Second Respondents should be struck off the Roll of Solicitors.
84. The Tribunal assessed the Applicant's costs in a fixed sum of £18,000 and ordered that the costs be paid in differing sums by each Respondent to reflect their different levels of culpability noting in particular that the lack of engagement by the Second and Third Respondents had increased the costs.
85. The Tribunal Ordered that the Respondent, Stella Peter of 3 Derwent Avenue, East Barnet, EN4 8LU, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £4,000.00.

The Tribunal Ordered that the Respondent, Kate Umealu Echeazu of 15 Loewen Road, Grays, Essex, RM16 4UU, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,000.00.

The Tribunal Ordered that the Respondent, Frank Nnamdi Ezuma of 28 Livermore Road, London, E8 4EZ, 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 £9,000.00.

Dated this 26th day of March 2010
On behalf of the Tribunal

A H B Holmes
Chairman