

IN THE MATTER OF JULIET D`SOUZA and DEIDRE DAIN NEWELL-AUSTIN,
solicitors

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr L N Gilford (in the chair)
Mr J P Davies
Mr D E Marlow

Date of Hearing: 12th November 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors Regulation Authority ("SRA") by Stephen John Battersby, solicitor and partner in the firm of Jameson & Hill, 72-74 Fore Street, Hertford, Herts, SG14 1BY on 3rd November 2008 that Juliet D'Souza and Deidre Dain Newell-Austin, solicitors of Austin Law LLP, 2nd Floor, 244 Edgware Road, London, W2 1DS 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.

The allegations against the Respondents were:

- (i) that they failed to keep their books of accounts properly written up contrary to Rule 32 of the Solicitors Accounts Rules 1998 ("SAR");
- (ii) that they withdrew monies from accounts of clients when there were not sufficient funds held to cover those withdrawals contrary to Rule 22(5) of the SAR;
- (iii) that they took monies for payment of fees without first giving or sending a bill of costs or other written notification of the costs incurred to the client contrary to Rule 19(ii) of the SAR;

- (iv) that they did use monies held for clients in respect of payments for other clients contrary to Rule 22(7) of the SAR;
- (v) that they failed to remedy breaches of the SAR promptly upon discovery contrary to Rule 7 of the SAR;
- (vi) that they failed to give proper and full information about their costs to clients contrary to Rule 1 and 2.03 of the Solicitors Code of Conduct 2007;
- (vii) that, as members of Austin Law Limited Liability Partnership, which was set up on 31st May 2007, they failed to apply for recognition as a recognised body in breach of Rule 3 of the Solicitors Incorporated Practice Rules 2004;
- (viii) that between 31st May 2007 and 18th February 2008 they practised through Austin Law Limited Liability Partnership without applying to become a recognised body in breach of Practice Rule 7 of the Solicitors Practice Rules 1990;
- (ix) that they conducted themselves with a lack of integrity and in a manner which was likely to diminish the trust which the public had in them and the profession in that dishonestly, or in the alternative recklessly, were party to an arrangement whereby debit and credit balances were deleted from or altered on their hard copy version of the list of liabilities to clients, this being likely to obstruct and/or mislead an Investigation Officer of the SRA in the course of his investigation - contrary to Rules 1.02, 1.06 and 20.03 of the Solicitors Code of Conduct 2007.

The application was heard at the Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 12th November 2009 when Stephen John Battersby appeared as the Applicant, Dr D'Souza appeared and was represented by Mr James Pyke of James Pyke & Co, 159 Herne Hill, London, SE24 9LR and Ms Newell-Austin appeared and was represented by Mr David Morgan of RadcliffesLeBrasseur, 5 Great College Street, Westminster, London, SW1P 3SJ.

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

The Tribunal Orders that the Respondent, Juliet D`Souza of IEC Solicitors, 227 High Road, London, NW10 2NX, solicitor, do pay a fine of £3,500.00, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,000.00, such costs to be joint and several with the other Respondent.

The Tribunal Orders that the Respondent, Deidre Dain Newell-Austin of Austin Law LLP, 2nd Floor, 244 Edgware Road, London, W2 1DS, solicitor, do pay a fine of £7,500.00, such penalty to be forfeit to Her Majesty the Queen, and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,000.00, such costs to be joint and several with the other Respondent.

The evidence before the Tribunal

The evidence before the Tribunal included the Rule 5 Statement of the Applicant, together with accompanying bundle which included the Forensic Investigation Report of Mr S Hill

dated 18th April 2008. The evidence before the Tribunal also included a witness statement of Ms Newell-Austin dated 1st May 2009 with accompanying exhibit and her sworn oral evidence, a witness statement of Dr D'Souza dated 5th May 2009, together with accompanying exhibit, a witness statement of Hanif Raidhan dated 29th June 2009 together with his sworn oral evidence, a witness statement of Shabir Raidhan dated 29th June 2009, a witness statement of Florence Soord dated 9th April 2008 together with her sworn oral evidence and the sworn oral evidence of the Forensic Investigation Officer, Mr S Hill. The Tribunal also had before it three character references submitted on behalf of Ms Newell-Austin.

Preliminary matter

At the start of the proceedings Mr Battersby indicated that he would not be proceeding against Dr D'Souza in relation to allegation (ii) and asked that that allegation against her be withdrawn. The Tribunal agreed that allegation (ii) could be withdrawn against Dr D'Souza.

The Applicant also indicated that Ms Newell-Austin would admit all of the allegations with the exception of allegation (iii) and (ix). Dr D'Souza would admit all the remaining allegations against her with the exception of allegation (ix).

The facts are set out in paragraphs 1 – 48 hereunder:

1. The First Respondent, Juliet D'Souza, born in 1955, was admitted as a solicitor in 2006. Her name remains on the Roll.
2. The Second Respondent, Deidre Dain Newell-Austin, born in 1974, was admitted as a solicitor in 2006. Her name remains on the Roll.
3. At the times material to the application the Respondents were partners in the firm of Austin Law Solicitors and subsequently members of its successor firm, Austin Law Solicitors LLP of 2nd Floor, 24 Edgware Road, London, W2 1DS. Ms D'Souza left the firm on 1st August 2008. Ms Newell-Austin had been with the firm since its inception in September 2006. Dr D'Souza was with the firm from 1st November 2007 until her departure on 1st August 2008.
4. On 7th February 2008 Mr S Hill, an Investigation Officer of the SRA commenced an inspection of the books of account and other documents of the Respondents' firm. His Forensic Investigation Report "(FIR)" is dated 18th April 2008.
5. At the commencement of the inspection Dr D'Souza provided Mr Hill with Microsoft Excel Spreadsheets in electronic form. She also gave him a number of hard copy documents which included client matter listings covering the second half of 2007. The hard copy list of balances as at 31st December 2007 showed 26 debit balances for various amounts between £9.03 and £4,564.50 totalling £15,940. Dr D'Souza partially explained these debits in a letter of 15th February 2008.

Allegation (i)

6. When Mr Hill compared the Microsoft Excel version of the list of liabilities with the hard copy document for 31st December 2007 he discovered that there were two debit

balances totalling £12,292.75 which did not appear on the hard copy version. In addition there were 39 credit balances totalling £12,006.39 which were on the Microsoft Excel spreadsheet but not on the hardcopy version and a further credit balance had been reduced by £286.36 on the hard copy. The credit balances therefore totalled £12,292.75 - the same as the missing debit balances. Because of the way in which the accounting documents were prepared and the discrepancies between the Microsoft records and the hard copy, Mr Hill was unable to express any opinion as to the firm's total liabilities to clients.

7. In respect of 12 matters Dr D'Souza had omitted the credit balances from the list of client balances without adjusting the client ledger card or raising any bill. Client matter ledger cards in relation to matters in which bills had been raised in January 2008 were not up to date.

Allegation (ii)

8. The action taken by the Second Respondent in trying to balance the accounts was carried out to deal with debit balances. They had been caused by monies being taken from client account in excess of those held for particular clients. This caused a minimum cash shortage of £16,449.88 to exist as at 31st December 2007. In the case of Mr NA who was a client in a conveyancing purchase transaction, £10,964.75 was paid in excess of funds held. In connection with another purchase transaction for clients Mr and Mrs G, an excess of £1,328 was paid out in excess of monies held. There were 13 other debit balances totalling £4,157.13. The Second Respondent explained these deficits in a letter to Mr Hill of 15th February 2008.

Allegation (v)

9. The debit of £10,964.75 in connection with the client, Mr NA had been notified to Ms Newell-Austin in June 2007. Despite this, it remained in existence until 1st February 2008 when it was replaced. The debit balance of £1,328 in connection with the Mr and Mrs G ledger had been in existence since 24th May 2007 and had not been replaced at the time of the inspection. The other debit balances were cleared by Ms Newell-Austin after the commencement of the inspection.

Allegation (iii) and (iv)

10. The means adopted by the Respondents to deal with debit balances was to remove credit balances by drawing up bills of costs and applying the monies so produced to offset the debit balances. There have been 40 credit balances and in 27 of them bills of costs were drawn up, none of which were sent to the relevant client. Each of these bills accounted for the outstanding credit balance on the relevant account which was wiped out. Ms Newell-Austin told Mr Hill that these bills had been raised in the week prior to his visit, although all of them were dated differently. She said that it had been her intention to take the costs to cover the deficit.
11. There were 12 other matters in which the credit balances had been removed from the client balances but no bill had been raised nor had the client ledger matter card been adjusted in any case. These 12 balances amounted to £12,006.39 in total. The two debit balances which had been removed from the list of client balances totalled

£12,292.75. The balance of £286.36 was produced by the reduction of a fortieth credit balance on another ledger by that amount (£286.36) on the hard copy version of the client list.

12. Allegation (ix)

When Ms Newell-Austin was interviewed by Mr Hill she agreed that she had 'played with' the figures to make them balance. She denied doing this to hide the shortage saying "No, I tried to cover the shortage by taking money that the firm was owed". She told Mr Hill that she had not transferred the bills. Most of the manipulation of the figures were carried out by Ms Newell-Austin but nevertheless Dr D'Souza was aware of what was going on and involved in it. Mr Hill took a statement from the former cashier, Ms Florence Soord.

Allegation (vi)

13. In analysing seven of the firm's bills in conveyancing matters, Mr Hill found that a total of £1,620 had been charged as disbursements in relation to Stamp Duty Land Tax, completion administration fees and indemnity insurance contributions when these were clearly costs rather than disbursements.

Allegations (vii) and (viii)

14. Mr Hill noted that although the firm had become a limited liability partnership on 31st May 2007, the SRA were not informed of this fact until 18th February 2008 when they amended their records. Between those two dates the firm had continued to practice as an LLP.
15. The explanation of the Respondents was sought by the SRA in letters sent to them on 6th May 2008. In a letter dated 6th June 2008 RLB Solicitors replied on behalf of both Respondents admitting breaches of the SAR but denying any dishonesty. Dr D'Souza added further comments on her own behalf in her letter of 12th June 2008.
16. On 17th July 2008 an authorised officer of the SRA resolved to refer the conduct of the Respondents to the Tribunal.

The sworn oral evidence of Mr S Hill, the Investigation Officer of the SRA

17. Mr Hill confirmed the contents of the Forensic Investigation Report dated 18th April 2008 together with its appendices. He worked for the SRA between August 2005 and April 2008 and he now lived and worked in France. The Applicant asked him about two of the cash shortages indicated at paragraph 14 of the FIR, one of which dated from May 2007 and one from June 2007. The shortages were in the sum of £10,964.75 and £1,328 respectively. Both had arisen before Dr D'Souza had come to the firm and Mr Hill confirmed that dishonesty in this respect was not alleged against either of the Respondents.
18. At the beginning of his visit Mr Hill had been told that the accounts were handwritten but were also available in Excel format. At that stage he had asked for a copy in electronic form which had been provided. The two debit balances amounting to

£10,964.75 and £1,328 were shown on the Excel workbook but did not appear on the hardcopy version of the list of liabilities to clients. However Mr Hill did confirm that he had also been given access to the ledger cards which had contained these two figures.

19. Mr Hill had spoken to the legal cashier, Ms Soord, and she had produced a statement which was contained at Appendix 9 of the Report. He had also seen text messages sent to Ms Soord by Ms Newell-Austin and could confirm the contents. Mr Morgan, on behalf of Ms Newell-Austin put it to Mr Hill that his interpretation of the texts was incorrect.
20. On 11th February 2008 Mr Hill had met with Dr D'Souza and asked her about the way in which the inaccurate documents presented to him had been prepared. Mr Hill confirmed that Dr D'Souza had replied that the figures had been altered but not in order to deceive Mr Hill but because Ms Newell-Austin was panicing. Dr D'Souza had confirmed that she did not help with the figures.
21. In a further interview with both Respondents on 11th February 2008 Mr Hill had asked Ms Newell-Austin specifically concerning the balance of £10,964.75. He confirmed that during that interview Ms Newell-Austin had admitted to "playing with the figures". It was put to Mr Hill by Mr Morgan on behalf of Ms Newell-Austin that she denied making that statement which appeared at paragraph 76 of the FIR and Mr Hill said that is what she had said at the time and that it was in his notes. He confirmed that it was at reference K127 in his notebook and produced the note for inspection by the Tribunal.
22. In further questioning by Mr Morgan Mr Hill said that he had given Ms Newell-Austin the chance to read through his notes but it was put to Mr Hill that Ms Newell-Austin denied that she had been given the chance to do that and he disagreed. He did agree however that the hardcopy document listed at paragraph 10(ix) a handwritten client account cashbook had not been amended or altered.
23. Mr Morgan asked Mr Hill whether, when he had discovered the discrepancy between the hardcopy documents and the Excel worksheets, the Respondents had concealed the two amounts in question. Mr Hill agreed that Ms Newell-Austin had told him that the last two matters were missing from the list before he had raised the matter with her. She said that the hardcopy documents had been altered and she had raised the matter first.
24. Mr Morgan asked Mr Hill whether he had seen the statements of Messrs Raidhan and if he had whether he contested them. Mr Hill responded that he was not in a position to do so but that they did conflict with the statement of Ms Soord. He had not taken statements from the bookkeepers. He was unable himself to comment upon the allegation of dishonesty and could only speak as to the facts.
25. In questioning from Mr Pyke for Dr D'Souza, it was put to Mr Hill that in the joint interview all of the answers had been given by Ms Newell-Austin and none by Dr D'Souza. Mr Hill had responded that this was probably the case. He also agreed that he had been told about the electronic version of the accounts and that in that respect nothing had been hidden. He agreed with Mr Pyke that Ms Newell-Austin was the

sole signatory to the accounts. When he had asked Dr D'Souza if she had been a party to a discussion to help hide the debit balance from the papers produced to him, she had only mentioned the larger of the debit balances and had not been aware of how it had been covered up.

The sworn oral evidence of Ms Florence Soord

26. Ms Soord had been a bookkeeper for firms of solicitors for 41 years. She had worked for a lot of firms in the London area both big and small. Her connection with the firm had begun in 2006 and she confirmed that the information contained within her statement to Mr Hill dated 9th April 2008 at page 49 of the bundle was true. The notes contained at page 52-54 of the bundle were her own recording of events that had taken place on 4th February 2008 and she told the court that she had probably made notes that evening as she was upset as to the events that had occurred that day.
27. She was directed to a note in the bundle at page 55 which contained some figures. She said that these figures were produced during a meeting with Mr Hanif Raidhan on 4th February 2008 during which he had suggested adding back the debit balances in order that the accounts could balance. She confirmed that she had not been happy following his explanation and had not intended to change the figures. She had realised at the time that the suggestion had arisen as the SRA were attending on 7th February 2008.
28. The witness was asked about the texts that she had received from Ms Newell-Austin and confirmed the contents of them. She had not responded to them.
29. She had known about the debit balances and had become frustrated that they were not being addressed. She had been down to see the accountants and asked them to "do it right".
30. It was put to her by Mr Morgan that she had been replaced by a previous firm following a disagreement about her work but she categorically denied that the reason she had left was anything to do with her standard of work.
31. The witness was asked by Mr Morgan whether she had seen Hanif Raidhan's statement and confirmed that she had done so. She said that Mr Raidhan had said in his statement that he had explained the measures to be taken with her but although she had initially said that she did not understand the explanation she had decided that she was not going to get involved with any alterations of this nature.
32. She categorically denied that any overdrawn ledgers were down to bookkeeping errors as she had been doing solicitors accounts for too long to make such errors.
33. In questioning from Mr Pyke, she was asked about her relationship with Dr D'Souza. In response she had said she had very little to do with her and Dr D'Souza had not been in charge of the accounts. She confirmed that Ms Newell-Austin was the only person in charge of the accounts.
34. Mr Pyke asked the witness whether she could recall Dr D'Souza saying anything during the meeting with the accountant and she responded that she could not recollect

that she did. She did not think that Dr D'Souza knew anything of the £10,000 debit balance.

35. In re-examination by the Applicant Ms Soord was asked about her attitude towards the amendments that had been suggested and said that she did not regard these amendments as amending mistakes but covering up the debit balances.

The sworn oral evidence of the Second Respondent, Ms Newell-Austin

36. Ms Newell-Austin confirmed the contents of her statement dated 3rd May 2009 as true and it was agreed that that could be taken as her evidence in chief. Whilst she admitted that she had altered the figures prior to the Investigating Officer's arrival, she had not done so with the intent of misleading him and had acted on advice from her accountants. She now realised that she may have misunderstood the advice given however she genuinely believed at the time that she was acting properly. The handwritten client account cashbook that she had given to Mr Hill on 7th February 2007 presented a true reflection of the accounts. She had attempted to be full and frank with Mr Hill however he had told her that he only wanted answers to specific questions. She had however volunteered the production of the electronic copies of the accounts in the Excel spreadsheets.
37. In her evidence she said that the books of account had been about two months behind. It had become increasingly difficult to communicate with Miss Soord and communication had taken place through notes rather than conversation.
38. She had discussed the situation with the accounts once or twice with Mr Raidhan who was unsure as to whether she had brought it up as a direct result of something said to her by Ms Soord.
39. Ms Newell-Austin confirmed that on 4th February 2008 the matter of the debit balance of £10,964.75 had been discussed with Mr Raidhan and he had given advice as to how to reflect that amount in the ledgers. She had asked Ms Soord to attend that meeting and Hanif Raidhan had shown Ms Soord how to make amendments. Mr Soord had said that she would think about it and left the meeting after which Ms Newell-Austin had not spoken to her since.
40. Ms Newell-Austin said in evidence that it was not her intention to disguise any shortages. In using the word "cover" she had not meant to cover up but more to "replace". She denied saying she was "playing with the figures".
41. Ms Newell-Austin said that the problems had arisen as bills should have been rendered in some cases but that had not happened and consequently monies had not been taken. She admitted that the bill should have been raised at the time. She should have activated client office payments when the bills were sent and paid to the clients. She confirmed that in general her accounts were in good order.
42. In questioning from the Applicant Ms Newell-Austin admitted that she had known about the debit balance of £10,964.75 for six months; indeed she could hardly forget it. She had been aware of it at the time of Mr Hill's visit as well as the smaller balance of £1,328. It had been arisen due to a mistake on a conveyancing matter

which should have been addressed. The accountant had suggested raising bills on cases where they were settled but still outstanding in order to ensure that the ledgers balanced.

43. Everything had been put before Mr Hill and she had been full and frank with him. She now accepted that the construction of the other hard copy documents where the accountant's suggestions had been incorporated had the potential for being misleading but there was certainly no dishonesty involved. She agreed on questioning from the Chair that she should have dealt with the debit balances earlier and could have told Mr Hill of the problem earlier. However he had made it very clear that he did not want voluntary information.
44. In cross-examination from Mr Pyke, Ms Newell-Austin agreed that Dr D'Souza had been working three days per week as a part-time salaried partner. She did however say that in her view both she and Dr D'Souza were responsible for maintaining the books of accounts. It was not correct to say that she alone maintained the accounts. However Dr D'Souza had not got along with Ms Soord which had made matters more difficult. It was her position that Dr D'Souza was qualified at bookkeeping, the accounts books had been kept in front of her desk and that she bore equal responsibility for maintenance of the accounts. Ms Newell-Austin had not been seeking to conceal anything from Mr Hill.

The sworn oral evidence of Mr Hanif Raidhan

45. Mr Raidhan confirmed the contents of his statement dated 29th June 2009 as true.
46. He confirmed that he had attended a meeting on 4th February 2008 when he had been called to the firm's office. In that meeting the two debit balances of £10,964.75 and £1,328 had been discussed.
47. During the meeting he had suggested a methodology whereby bills that had been settled but not transferred could be moved from office to client account and the debit balance could be paid by re-allocating. He made no suggestion that the debit balance be disguised. When he had tried to explain the methodology to Ms Soord she at first indicated that she did not understand but then said "I'll see".
48. It was his evidence that what he had suggested was perfectly proper and he resented any allegation that his advice was somehow dishonest or that he was trying to help cover up any dishonesty.

The submissions of the Applicant

49. In the Applicant's submission the main thrust of the prosecution was that there were two shortages in existence since May 2007. These shortages were in the sum of £10,964.75 and £1,328. These shortages gave rise to allegation (ii) against Ms Newell-Austin. In the Applicant's submission these constituted a clear breach of Rule 22(5) of the SAR but whilst he was saying that these withdrawals were improper he was not saying that they were dishonest.

50. Allegation (ix) against both Respondents was the main issue in this case. The Applicant alleged that what was done was mainly done by Miss Newell-Austin but with the knowledge of Dr D'Souza. The allegation was that hard copies of accounts had been produced to the Investigation Officer of the SRA from July 2007 which did not show these two shortages. The allegation was therefore that these shortages had been concealed from the Investigation Officer. If Mr Hill had not looked at the computer documents then the shortages would have been concealed from him.
51. It was the Applicant's submission that the chronology was significant in this case. The letter announcing the imminent SRA inspection would have arrived on or around 1st February 2008. The Applicant alleged that on that day, and as a result of the announcement of the imminent inspection, a transfer was made from office account to client account in the amount of £10,964.75 in order to make good the shortage of the larger sum. Thereafter the hard copy of the accounts failed to show the true position. On being interviewed by Mr Hill, both of the Respondents had made admissions that the hard copies had been altered. The SRA's case was therefore that in doing that the Respondents had either been dishonest or reckless. The dual test was that laid out in Twinsectra Ltd v Yardley and Others [2002] UKHL 12 i.e. that the Respondent's conduct was dishonest by the standards of reasonable and honest people and that he himself realised that by those standards his conduct was dishonest. The SRA said that an honest solicitor would not think it right to hand over documents concealing the true position to an Investigation Officer of the SRA. The role of Dr D'Souza had been less than that of Ms Newell-Austin but it was accepted that she was there to supervise and therefore she should not have supported this arrangement.

The submissions of the Second Respondent, Miss Newell-Austin

52. It was submitted by Mr Morgan on behalf of Ms Newell-Austin that the test in Twinsectra was not met. There was insufficient evidence upon which the Tribunal could find this allegation proved against his client. Any evidence of dishonesty was entirely that of Ms Soord. There was evidence that Ms Newell-Austin and Mr Hanif Raidhan had discussed the matter openly between themselves in a meeting. There had been no attempt to hide the figures and they were all available in the ledgers and in the cashbook. Whilst his client could see that what had happened was wrong, she had taken advice and in a state of panic at the time had thought it was the correct thing to do. In his submission the SRA had not met the requisite level of proof to meet the test in Twinsectra.

The submissions on behalf of the First Respondent, Dr D'Souza

53. Mr Pyke said that his client had been a salaried partner, albeit a supervising one. All of the information subject to the allegation had been given to Mr Hill by Ms Newell-Austin. His client had not been involved in any attempt to mislead Mr Hill. In any event his client had not known anything of the forthcoming inspection until she had found out at the meeting on 4th February 2008.
54. In Mr Pyke's submission neither limb of Twinsectra had been made out.

55. In respect of the other admitted allegations his client represented no danger to the public as she undertook no conveyancing and therefore held a very small balance on client account in any event.

The Findings of the Tribunal and its reasons

56. So far as allegation (ix) was concerned, this matter hinged on the question of dishonesty or recklessness. The Tribunal found neither dishonesty nor recklessness. There had been no dishonest intent in the creation of the matter listings and the Respondents were entitled to rely on the advice of their accountant. Neither had there been any real attempt at concealment from Mr Hill, of that which as a matter of fact he discovered. Miss Newell-Austin had been guided by Mr Hill in the way the investigation had been conducted and he had conceded in his evidence that it was she who pointed out the debit balance of £10,964.75 before he discovered it. The Tribunal found that this did not meet either limb of the test in *Twinsectra*. Similarly in order to find recklessness there would need to be a finding that she had paid no attention to the matter and it was clear from the evidence that she had addressed the debit balance issue and had taken advice. The Tribunal found that in her actions Ms Newell-Austin had panicked. Recklessness could not be established in allegation (ix) either and accordingly allegation (ix) was found not proved.
57. In relation to the other allegations where these had not been accepted they were found to have been proved. They involved serious breaches of the Accounts Rules over a prolonged period. Although the First Respondent had said in her evidence that she had not been involved with the accounts, it was clear that she was the supervising partner and that her supervision had enabled the firm to practise.

The Mitigation of the Respondents

58. Ms Newell-Austin was extremely contrite. She had now put her house in order and taken on a new bookkeeper. At the time of the allegations she had been inexperienced and had learnt a lesson. Her income was modest in these constrained times.

The Order of the Tribunal

59. In Dr D'Souza's view costs should be born by the Second Respondent and in Mr Pyke's submission he hoped that any Order for costs would be severed with his client bearing the lower percentage.
60. In relation to costs, the Applicant had sought a sum of £14,708.05. However since these costs had been weighted down due to the dishonesty allegation which had not been proved before the Tribunal today, the costs would be reduced to £10,000 overall on a joint and several basis. The Tribunal had also taken into account the limited means of the Respondents and the decision of the Divisional Court in the unrelated case of D'Souza – v – The Law Society [2009] ALL ER 280.
61. The Tribunal Ordered that the Respondent Juliet D`Souza of IEC Solicitors, 227 High Road, London, NW10 2NX, solicitor, do pay a fine of £3,500.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that she do pay the costs of

and incidental to this application and enquiry fixed in the sum of £10,000.00, such costs to be joint and several with the other Respondent.

62. The Tribunal Ordered that the Respondent, Deidre Dain Newell-Austin of Austin Law LLP, 2nd Floor, 244 Edgware Road, London, W2 1DS, solicitor, do pay a fine of £7,500.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,000.00, such costs to be joint and several with the other Respondent.

Dated this 27th day of February 2010
On behalf of the Tribunal

L N Gilford
Chairman