SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 — Case No. 11523-2016

BETWEEN:

SOLICITORS REGULATION AUTHORITY — Applicant

and

SUSAN ANITA BARRINGTON-BINNS — Respondent

Before:

Mr A. G. Gibson (in the chair)
Mr P Jones
Mr M Palayiwa

Date of Hearing: 7 March 2017

Appearances

Mr Inderjit Johal, counsel, of The Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham B1 1RN for the Applicant.

The Respondent, Mrs Susan Anita Barrington-Binns, appeared and represented herself.

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against the Respondent, Mrs Susan Anita Barrington-Binns, in a Rule 5 Statement dated 14 June 2016, were that:

1.1 Between April 2013 to May 2015, she failed to ensure accounting records were properly written up to show dealings with client and office money by Barringtons Legal Ltd ("the Firm"), a firm of which she was the principal, in breach of Rules 1(e), 1(f) and 29.1 SRA Accounts Rules 2011 ("AR 2011") and Principles 7 and 8 of the SRA Principles 2011 ("the 2011 Principles");

1.2 As a result of failing to have such accounting records properly written up she:

1.2.1 failed to record dealings with client money in a client cash account and on the client side of a separate client ledger in breach of Rule 29.2 AR 2011; and;

1.2.2 failed to record dealings with office money relating to a client in an office cash account and on the office side of an appropriate client ledger account in breach of Rule 29.4 AR 2011;

1.3 Between April 2013 and May 2015 she failed to carry out bank account reconciliations in relation to the Firm in breach of Rule 29.12 and 29.13 of the AR 2011 and Principles 7 and 8 of the 2011 Principles;

1.4 Between April 2013 and May 2015 she failed to hold client money in accordance with the requirements of Part 2 of the AR 2011 and in breach of Rules 1.2 (a) & (b), 13.1, 13.2, 13.8, 14.1 and 15.1 of the AR 2011 and Principles 7 and 8 of the 2011 Principles;

1.5 In her capacity as the firm's Compliance Officer for Financial Administration ("COFA"), she failed to take all reasonable steps to ensure compliance with the Firm's regulatory obligations in respect of the AR 2011, in breach of Rule 8.5 (e) (i) of the SRA Authorisation Rules 2011;

1.6 She provided a banking facility to her client, Mr DG, through her client account and made payments into, and transfers or withdrawals from her client account which were not made in respect of instructions relating to an underlying transaction (and the funds arising therefrom) or to a service forming part of her normal regulated activities in breach of Rule 14.5 of the AR 2011 and Principle 6 of the 2011 Principles;

1.7 She failed to be alert to suspicious features of a transaction in which she facilitated the payment of £1.269,725 through her client account to an offshore bank account in Belize in breach of Principles 3 and 6 of the 2011 Principles;

1.8 She failed to have sufficient regard for her duties under the Money Laundering Regulations 2007 ("MLR 07") and/or Law Society's Blue Card Warning on money laundering ("the Warning Card") in breach of Principles 6, 7 and 8 of the 2011 Principles.

Documents

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

Applicant

- Application dated 14 June 2016
- Rule 5 Statement dated 14 June 2016
- Witness statement of Gordon Hair dated 17 November 2016
- Application for an Agreed Outcome, dated 15 February 2017
- Agreed statement of facts and admissions, dated 14 February 2017
- Joint further submissions on the application for an Agreed Outcome, dated 3 March 2017
- Statements of costs, as at 14 June 2016, 22 September 2016 and 8 November 2016

Respondent

- Answer to the allegations (amended 4 August 2016)
- Respondent's witness statements, with exhibits, dated 4 August 2016 and 8 August 2016

Other

- Memorandum of Case Management Hearing ("CMH") held on 10 August 2016
- Memorandum of disclosure application hearing (by telephone) held on 8 November 2016
- Memorandum of decision on proposed agreed outcome, dated 24 February 2017.

Preliminary Matter – Agreed Outcome Procedure

3. The Tribunal's standard directions provide a procedure whereby, in appropriate cases, the parties can ask the Tribunal to approve an Agreed Outcome prior to the substantive hearing of the case. This procedure can be used where a Respondent admits allegations and the Applicant and Respondent agree on the appropriate sanction for the admitted allegations. It is for the Tribunal to determine if the proposed sanction appears appropriate in the light of the allegations.

4. The substantive hearing in this matter was listed to take place on 14 March 2017, with a time estimate of 3 days.

5. The parties submitted an application for an Agreed Outcome, with a Statement of Agreed Facts, on 15 February 2017. This was referred to a division of the Tribunal sitting on 23 February 2017 for consideration, using the Tribunal's standard procedure for proposed Agreed Outcomes. That division, sitting in private, was not satisfied that the Outcome proposed at that time was sufficient to protect the reputation of the profession and to protect the public. That division invited the parties to make further submissions in writing, and in particular to address the question of whether there should be any restrictions on the Respondent's practice after the expiry of the

proposed period of suspension. The Tribunal also sought information from the parties about two issues.

6. The Tribunal which considered the issues on 23 February recorded their decision in a Memorandum dated 24 February 2017. This directed the parties to provide written representations on the issues identified by the Tribunal and to attend to make representations on a further date, before the date on which the substantive hearing was due to begin. The matter was therefore listed to be considered, in a private hearing, on 7 March 2017.

7. The Tribunal dealing with the matter on 7 March heard the representations of the parties, as noted below, in private. As the Agreed Outcome, as amended, was approved, the Tribunal's decision and reasons for it are public.

Factual Background - Based on the Joint Statement of Agreed Facts dated 14 February 2017 (with minor editorial amendments where appropriate)

Background

8. The Respondent was born in 1967 and was admitted to the Roll of Solicitors in 1999.

9. The Respondent was the sole director, COLP and COFA of Barringtons Legal Ltd t/a Barrington Solicitors ("the Firm"). The Firm was established in April 2013 and was intervened into by the Applicant on 9 September 2015 following a self-report by the Respondent and a subsequent inspection into the Firm.

10. On 27 May 2015, the Respondent self-reported serious breaches of the Accounts Rules, which had been identified following an audit undertaken by her new accountants and auditors, Hodgson Hey Accountants and Tax Advisers ("HHATA") in May 2015. She also reported that a client file relating to the A Foundation, requested for review during the audit was not available as it had been provided to the West Yorkshire Police under a Production Order dated 23 April 2015 that had been served on the Firm. The Respondent also revealed that she had voluntarily provided further documents to the police following the service of a Production Order on the Firm, and had attended before a Crown Court Judge at Leeds Crown Court with a Detective Constable from the National Crime Agency to assist the officer in obtaining the Production Order relating to Yorkshire Executive Services Ltd ("YES"), a related company, after the service of the Production Order on the Firm. Once the Production Order was ordered against YES, the Respondent immediately handed over additional documents to the police.

11. On 28 May 2015 HHATA formally reported the Accounts Rules breaches to the Applicant.

12. On 11 June 2015 the Applicant carried out an inspection of the Firm. A Forensic Investigation Report dated 19 August 2015 ("the FIR") was prepared.

13. During the inspection, the Forensic Investigation Officer ("FIO") was informed by the Respondent that the Production Order served on YES was in respect of a police investigation into a "pension liberation fraud" which could potentially involve a

transfer of money that she had made for a client to an offshore account in Belize. The Respondent explained that the offshore account was set up and opened for her client, Mr DG by her Firm's sister companies, YES and Belize Executive Services Transactions Limited ("BEST"), which offered bona fide international corporate and company services including the provision of offshore companies and matching bank accounts.

14. YES was a UK registered company which was incorporated on 13 August 2013; it had been dissolved by the time these proceedings commenced. The Respondent and the Firm were its company directors and shareholders. BEST was a Belize registered company incorporated on the 27 August 2013; it had also been dissolved by the time these proceedings began. YES was recorded as the company director and shareholder of BEST.

15. The FIR recorded that during the period 8 April 2013 to 31 May 2015 the accounting systems put in place and the accounting records maintained by the Respondent were not adequate and did not reliably control or record clients' monies held. Client bank reconciliations had not been performed, client ledgers had not been prepared and a fully operational client bank account had not been properly opened and was therefore not available properly to receive, hold and deal with clients' monies.

16. The FIR also highlighted the receipt and payment of approximately £1.3 million from the Firm's client account on behalf of the Respondent's client, Mr DG/the A Foundation to an offshore bank account in Belize without proper due diligence as to the source of the funds. The funds appeared to be received from Cornerstone Friendly Society ("CFS"), which was wound up and placed into liquidation in June 2015 following a police investigation into fraud and money laundering allegations regarding pension investments.

17. On 9 May 2015, the Respondent wrote to her insurers and notified them of circumstances that may give rise to a claim. In the letter she referred to an investigation into a number of her clients and their associates in relation to suspected pension fraud and money laundering. She also provided a list of clients including CFS, Mr DG, the A Foundation and SC SA Limited.

The Facts and Matters Agreed in relation to the Allegations
Allegations 1.1 and 1.2

18. During the period 8 April 2013 to 31 May 2015 the accounting systems put in place and the accounting records maintained by the Respondent were not adequate. The Respondent had operated a "quick books" system which she used to compile her VAT returns. However, she acknowledged during the Applicant's inspection that this system did not generate any accounting records in respect of her clients individually

19. The Respondent told the FIO that she previously had a book-keeper who had operated a SAGE system which appeared to record transactions from September 2013 to September 2014. The Respondent provided the FIO with a copy of the firm's SAGE back up data. However, she acknowledged that she did not understand the accounting information on it.

20. HHATA in their letter of the 28 May 2015 to the Applicant reported the following:

- the Respondent had not established or maintained proper accounting systems to ensure compliance with the Rules and had not kept proper accounting records to show accurately the position with regard to money held for each client;

- the accounting records did not satisfactorily distinguish between client money and other money received by the Firm;

- the Respondent had kept records on each individual file of the monies held on behalf of clients but failed to draw these together into a monthly reconciliation. Full details of all transactions were not being recorded in a format that was accessible and easily understood and outside the client files to which the transaction related.

21. HHATA in their letter identified corrective action that had been undertaken by the Respondent or was in the process of being undertaken. Specific reference was made to client account ledgers being produced recording transactions in a chronological order for each client where client money was involved.

22. On 19 June 2015 the Respondent wrote a letter to the Applicant in which she provided an update on progress in addressing the Accounts Rules issues. She informed the Applicant that she was keeping proper accounting records, that she had a system of cash books for the office and client account and was maintaining formal client ledgers for client accounts. In the period between November 2014 and 30 November 2015, client ledgers had been prepared in respect of every file on which client monies were held.

23. The Respondent did not keep proper accounts records for over 2 years and since the inception of her Firm. The receipt of office and client money was not properly recorded in ledgers and the records kept in client files did not accurately reflect what was client or office money. Consequently, the Respondent was in breach of the Rules 1(e) & (f), 29.1, 29.2 and 29.4 of the AR 2011 and in breach of Principle 7 as she failed to comply with her regulatory obligation to comply with the Accounts Rules.

24. HHATA, in their letter of 28 May 2015 to the Applicant, said that having reviewed a sample of files available they were not given reason to think there was a loss to any client. However, given the lack of systems and controls in place they were unable to confirm that that was the case. By failing to have proper accounting records, the Respondent has failed to run her business or carry out her role in her business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8.

25. Prior to starting her sole practice, the Respondent engaged an accountant to advise her on the correct accounting procedures; the Respondent stated that the advice received was incorrect. However, the Respondent accepted that ultimately she was responsible for compliance with the Accounts Rules. There did not appear to have been any loss to clients as a result of the accounting failures. No Compensation Fund payments had been made to the Respondent's clients. From June 2015 the Respondent's practice was compliant with the Accounts Rules.

Allegation 1.3

26. In the letter from HHATA to the Applicant dated 28 May 2015, HHATA reported the following:

- The Firm had failed to maintain reconciliations and formal ledgers for its client accounts on a timely basis;
- The Firm had failed to maintain reconciliations for its office account on a timely basis;
- The lack of client ledgers and reconciliations on a monthly basis indicated a failure to show the current balance of each client matter at all times and to record the transactions on a timely basis and in a chronological order;
- There was a failure to extract the client balances on a monthly basis and compare the balances extracted to the client account reconciliations on a timely basis;
- There was a failure to prepare and sign off monthly prepared reconciliations on a timely basis at the time the transactions were done.

27. HHATA, in their letter, went on to say that reconciliations would be produced once client account records had been produced, to compare the client account ledgers with the amounts held within the client account designated deposit accounts.

28. The Respondent, in her letter to the Applicant dated 19 June 2015 confirmed in summary the corrective action taken, including:

- She now had client ledgers, and reconciliations would be done on a monthly basis;
- That client balances would be extracted on a monthly basis and compared to the client account reconciliation on a timely basis;
- Monthly reconciliations would be prepared and signed off.

29. On 16 July 2015, client bank reconciliations and supporting accounting records were provided to the FIO that covered the period December 2014 to June 2015. The FIO noted that client reconciliations had not previously been prepared. On 6 August 2015, the Respondent provided the FIO with a client bank reconciliation as at 31 July 2015, prepared by her accountant, which did not record any differences.

30. The Respondent was unable to prepare proper reconciliations for some two years from the inception of her firm as she did not keep proper accounting records. It was only after May 2015 that proper accounting records were kept and reconciliations were carried out from December 2014 to July 2015.

31. As a result of the Respondent's failure to carry out timely reconciliations for a period in excess of two years, she had breached Rule 29.12 and 29.13 of the AR 2011 and was in breach of Principle 7 as she failed to comply with her regulatory obligations under the Accounts Rules. By failing to perform reconciliations, she had also failed to run her business or carry out her role in her business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8.

Allegation 1.4

32. Both the FIO and HHATA reported that the Respondent used client call bank accounts to hold client money, which meant that client money could only be credited to the accounts by first transferring funds into the office account. Similarly, all payments made on behalf of the client had to be made via the office account.

33. HHATA in its letter of the 28 May 2016 to the Applicant reported the following:

- The Respondent needed to change its operation of the transacting of client account business as, whilst the Firm had a number of client designated deposit accounts in its name and an office account also in its name, there was no general client account currently;

- The Respondent was receiving client money directly into office account and then transferring it into a designated client deposit account, either when funds had cleared or if the funds were readily available on the day of receipt or the following day. There were no written instructions from the client to receive money into office account:

- Client money was consistently being paid into office account instead of client account;

- That action would be taken to regularise the banking operation of the Respondent by the opening of a general client account.

34. The FIO noted in his report that client call accounts, as acknowledged by the Respondent, could not be operated independently of the Firm's office account.

35. In the Respondent's letter to the Applicant dated 19 June 2016, she reported that a general client account had been set up and the Firm no longer received client money directly into the office bank account.

36. The Respondent had believed that she was dealing with client money in the correct manner, having received advice from her initial accountant (i.e. not HHATA).

37. The Respondent did not hold client monies in a proper client account and did not have a general client account for over two years. The client call bank accounts could not be operated independently of the office account. This resulted in client monies being paid into and held in office account without clients' instructions. Client monies were not paid without delay into client account and were not immediately available.

Client monies were not kept separately from office monies belonging to the Respondent.

38. Consequently, the Respondent failed to hold client money in accordance with Part 2 of the AR 2011, which relates to holding client money and the operation of a client account. The Respondent was also in breach of Rules 1.2 (a) and (b), 13.1, 13.2, 13.8, 14.1 and 15.1 of the AR 2011 and Principle 7 as she had a regulatory obligation to comply with the Accounts Rules. She had also breached Principle 8 as she failed to have a properly functioning client account for over 2 years, which presented a risk to the safeguarding of client monies.

Allegation 1.5

39. The Respondent was the sole director and COFA of the firm. The Firm remained in breach of a number of provisions of the AR 2011 from the inception of her Firm and for over two years, until she took corrective action following advice from HHATA.

40. The Respondent should have sought advice from competent accountants/auditors as to compliance with the AR 2011 prior to her opening her Firm. She should have sought advice as to the proper operation of a client account, maintaining accounting records and undertaking reconciliations. In the event that she did not understand accounting records, she should have sought advice of professionals. She should have employed book-keepers to maintain books of accounts and records throughout the entire period during which her Firm was operational.

41. The Respondent had a duty to undertake the above measures in order to ensure compliance with the AR 2011 and her failure to do so is a breach of Rule 8.5 (e)(i) of the SRA Authorisation Rules 2011.

Allegation 1.6

42. The Respondent acted for a Mr DG through her Firm and her sister companies, YES and BEST. YES and BEST provided international company services to Mr DG. YES set up an international bank account for the A Foundation with the Belize Bank International Limited (BBIL) and also incorporated the A Foundation and two related international Belize companies, AS Limited and ACM Ltd.

43. The Respondent informed the FIO that she had set up YES and BEST as separate limited companies to the Firm to provide international corporate and banking services to clients, to keep these high-risk activities separate from her Firm and to keep them at "arm's length" from the Firm.

44. On 16 August 2013, the Respondent sent a client care letter addressed to YES. The letter was regarding 'DG and all related companies and transactions' and referred to the arrangement between YES and the Firm whereby the Firm would provide supporting legal and financial services to YES. The scope of the instructions were as follows:

> "The work which you require [the Firm] to do is to carry out the legal drafting, advice, negotiation of a number of legal and corporate documents for DG and his related companies and transactions **including the provision of banking facilities for Mr DG and any of his companies in the form of a client account** (emphasis added).
>
> In addition, [the Firm] will ensure that all banking and other transactions comply with [the Firm's] and YES Ltd money laundering policies and all regulatory and other statutory duties...
>
> All matters will be under a contract with YES Ltd, however, whenever required [the Firm] will provide additional services to Yes Ltd who in turn will provide services to Mr DG and his companies"

45. The scope of the instructions went on to stipulate that the client in this matter was YES Ltd and that YES would be responsible for the Firm's fees.

46. On 16 August 2013, the Respondent sent a letter to DG on the YES letterhead, in which she confirmed that the Firm, would be pleased to act for DG as set out in the letter. The scope of instructions set out in the letter were as follows:

> "The work which you require [the Firm] to undertake is to provide general international corporate and legal services to you from time to time as requested by you".

47. The letter confirmed that the Firm's client was DG and that the Respondent's hourly rate was £150 as a Director. However, in the estimate of costs, expenses and disbursements, it appeared that the proposed work, being corporate services, instructing local agents in Belize and opening a bank account, was within the province of YES and not the Firm. The Respondent confirmed in the letter that:

> "If there is a need for any specialist legal work, we confirm that we will engage the services of [the Firm] to undertake this work on our behalf".

The letter was signed by the Respondent in her capacity as Director of YES.

48. On 17 October 2013, the Respondent provided BBIL with account opening forms for DG's companies, signed by herself. The Respondent declared in the forms that the source of the funds for the account would originate from the Firm or direct from the client. The amount of the initial deposits into the three accounts was said to be $11,000, $1000 and $1000.

49. On 22 November 2013 the Firm received £1.3 million into office bank account, apparently from the A Foundation. On 2 December 2013 this amount was transferred from office bank account to an "undesignated client account" in the name of the Firm. On 31 January 2014 the sum of £1,269,725.00 was transferred back to the office bank account (the Firm having deduced its legal fees from the £1.3 million by retaining sums on account in the undesignated client account as instructed by the client) from the undesignated bank account and on the same day this amount was transferred to the A Foundation's offshore bank account in Belize.

50. On 10 June 2014 the Respondent transferred £235,000 to CFS on the instruction of DG.

51. It appeared that the £1.3 million had originally been held by CFS as evidenced by the CFS "ledger" account statement in the name of AS and M Limited.

52. The Respondent informed the FIO that she had no knowledge of the activities of CFS and that she was just following her client's instructions. She informed the FIO that she knew CFS was a company related to DG although, she had not seen any documentary evidence to establish that. She also informed the FIO that CFS was not a client of the Firm at the time the Firm received the monies. After the Applicant's investigation, the Respondent's position was that she recollected that CFS was a client of the Firm, after reviewing files that were released by the police. With regard to the existence of an underlying legal transaction, the Respondent said that she provided DG with legal advice on asset and wealth protection and she added that it was normal for wealthy individuals to seek to protect their assets by placing them in offshore jurisdictions.

53. On 11 September 2015, the Applicant sent the Respondent a S44B notice, seeking further information and documents concerning the transfer of monies to the A Foundation.

54. The Respondent replied by email on 21 September 2015. The Respondent described the personal and corporate matters that she undertook for DG and provided the following explanation for the transfer of monies to the A Foundation:

> "The funds transferred into [the A Foundation] were required under the International Foundations Act in order to "endow" the foundation, an active step of placing the funds into the Foundation... without which the foundation would not be validly constituted... the Belize International Foundation Act requires a minimum endowment of US$10,000. Therefore, the funds transferred into the account of [the A Foundation] were for the purposes of endowing the foundation and fully validating it. The Foundation and bank account was set up for asset protection for Mr and Mrs DG and their family and the Foundation Charter and Charter on the police files fully evidence this".

Copies of the Aegis Foundations Charter and by laws were provided by the Respondent.

55. The Respondent admitted that with the benefit of hindsight she failed to give proper consideration to the fact that it was unnecessary and inappropriate for £1.3 million to pass through her client account. The Respondent provided corporate services to DG through YES and BEST and her Firm carried out legal work for DG in the form of drafting legal documents for the establishment of the A Foundation and providing advice on wealth protection. YES and BEST did not have independent banking arrangements. As the services provided by those companies and her Firm became blurred, the Firm's bank account was used to receive and transfer the money.

56. The Respondent accepted that with hindsight, and judging the transaction objectively, the transfer of funds to the A Foundation could have been done by DG through his accounts or by setting up separate accounts for YES and BEST. The Respondent accepted that she failed to properly scrutinise the transaction, and particularly:

- failed to ask herself why the client could not make the payment himself;
- the connection between the underlying legal transaction and the receipt and transfer of the money.

57. The Respondent accepted that she should have exercised greater caution in light of the large amount of money passing through her client account. She accepted that she should not have received the entirety of the £1.3 million into her account (other than the fees for legal work) or transferred £1,269,725.00 to BBIL.

58. She also accepted that she should not without more scrutiny have transferred £235,000.00 to CFS and that at the time she failed to give proper consideration to whether there was a sufficient underlying legal transaction for that payment. She simply transferred monies on the client's instructions without giving proper thought to the full underlying nature of the transaction.

59. The Respondent's conduct in transferring monies into and out of her client account on the instructions of her client amounted to a breach of Rule 14.5 of the AR 2011. The breach was serious in that it involved the movement of over £1.2 million through her Firm to an offshore jurisdiction. The conduct undermined the trust that the public would place in the Respondent and in the provision of legal services.

Allegation 1.7

60. The facts underlying this allegation are in paragraphs 42 to 43 and 48 to 51 above and the matters set out below.

61. On 2 September 2013, the Respondent sent an email to DG relating to the setting up of bank accounts for the A Foundation. In the email she referred to Belize being more stringent than other offshore jurisdictions and that she was not sure if her answer of "personal wealth protection or corporate asset protection" would satisfy the authorities.

62. In a client advice note dated 24 September 2013 the Respondent advised DG that BBIL would accept a professional reference from her as being the professional solicitor acting for the client and that BBIL required "the least due diligence" in comparison to the other more stringent banks mentioned in the client advice note.

63. By an email to DG on 9 November 2013 the Respondent advised him that his bank reference had been rejected by BBIL. On 3 December 2013, BBIL sent an email to the Respondent informing her that they had been unable to confirm the bank reference. The Respondent informed the FIO she did not know why the reference had been rejected or whether a new reference had been sent direct. She informed the FIO that she was not concerned that the bank reference had failed as it was "in Belize". The FIO noted that there was limited documentary evidence of due diligence in

respect of the receipt of the £1.3 million on 22 November 2013. The Respondent had assumed that the money had derived from her client DG however the "ledger account" that appeared on the due diligence file was on CFS letterhead and it referred to AS and M Limited. The Respondent told the FIO in interview that neither CFS nor AS and M Limited were clients. She subsequently changed her position on this after reviewing the files released by the police.

64. The Respondent was told that CFS were a part of a group of companies whose beneficial owners included DG. However, she did not have any documents establishing a link between DG and CFS. The Respondent also had carried out due diligence on DG and a JR of CFS to the extent that she had Know Your Client ("KYC") documents for them both. JR was listed as the first contact for enquiries at CFS.

65. The £1.3 million was received by the Firm in the form of a bankers' draft dated 18 October 2013, the same date as the date of the withdrawal on the CFS ledger account.

66. An attendance note dated 22 November 2013 from the Respondent's due diligence file, recorded a meeting with DG concerning the receipt of the £1.3 million. The attendance note recorded the following:

- that CFS was a related company to DG;
- a copy of a CFS bank statement showing the source of funds was on file;
- the Respondent was satisfied there were no money laundering issues;
- the source of the funds was private wealth from property transactions/financial services;
- the source of wealth was private wealth;
- the client was reputable;
- there were no money laundering issues for money in and out.

67. Despite appearing to be satisfied with the source of funds, the Respondent sent a letter to DG on 25 January 2014 and emails on 31 January 2014 in which she sought a full declaration of the source of the funds for the Firm's records and for the purposes of effecting the transfer to BBIL.

68. In an email dated 31 January 2014 from DG to the Respondent, DG stated that the monies had been sent from AS and M Ltd.'s bank account and were from different commercial ventures involving financing buildings projects, rental incomes, purchases and resale of commercial and domestic properties.

69. On 18 February 2014, BBIL acknowledged receipt of £1,269,725 and requested supporting documentation in respect of the source of funds.

70. The Respondent emailed BBIL on 24 February 2014. She did not provide them with the CFS ledger account statement but her own office bank statement and said, "DG has forwarded me your email to handle on his behalf. I attach a copy of our bank statement showing the bank transfer information on our office account from Mr DG on 22 November 2013 (highlighted in yellow)" She also informed them that DG had completed and satisfied all the Firm's due diligence required for money laundering.

71. On 25 February 2014, the Respondent supplied DG with the reply from BBIL and said, "I therefore suggest that you let me have a copy of the bank statement where funds were sent from and the name of the account... with reference to the declaration of the source of funds that you completed (attached), you will need some back up proof e.g. evidence of a property sale or realised investment etc. or any company records for any associated companies. I suggest that you let me have a letter with as much information that you are prepared to disclose...."

72. The suspicious features of the transactions that the Respondent failed to be alert to are the following:

- BBIL had rejected the bank reference for DG (although the Respondent believed this was due to communication problems with Belize);

- The payment of £1.3 million had come from CFS, a friendly society that held monies for individuals, rather than a company such as AS and M Ltd;

Paragraph 2083 of Volume 50 (Financial services and institutions) of Halsbury's Laws of England (pages AP102-106) states:

> "A friendly society is a voluntary association of individuals, unincorporated or corporate, subscribing for provident benefits. Friendly societies form part of a main group of voluntary benefit thrift and provident societies. In recent years the benefits of friendly societies have been provided primarily in the form of long term life insurance, but also include provision for sickness and unemployment benefits, and funeral expenses. In addition, friendly societies may carry on social or benevolent activities, particularly for members in financial difficulties, on either a contractual or discretionary basis..."

- the CFS ledger account statement recorded that the money was being held for AS and M Ltd., not for DG;

- the CFS accounts statement was not a bank statement;

- DG, in his confirmatory email (of 31 January 2014) referred to the funds having been sent from "[A and M] account", when in fact the monies came from CFS;

- The monies were to be sent to an offshore account in Belize.

73. The Respondent accepted, with the benefit of hindsight, that she should have been more alert to the suspicious features of the transaction and that her actions resulted in a facilitation of the transfer of monies to BBIL by, amongst other things, informing BBIL that the monies had originated from DG. Although she was told that CFS was

a related company to DG, at the time of making the statement and that AS and M Ltd. was a sub account of CFS, she did not have any documentary evidence, establishing a link between DG and CFS.

74. That Respondent accepted that, considering the facts objectively, her conduct compromised her independence and undermined the trust that the public placed in her and in the provision of legal services.

Allegation 1.8

75. The facts underlying this allegation are set out above at paragraphs 42 to 43, 48 to 51 and 61 to 71 above, and as set out below.

76. The MLR 07 provides, at Regulation 8,

> "8(1) A relevant person must conduct ongoing monitoring of a business relationship
>
> 8(2) Ongoing monitoring of a business relationship means –
>
> (a) Scrutiny of transactions undertaken throughout the course of the relationship (including where necessary, the source of funds) to ensure the transactions are consistent with the relevant person knowledge of the customer, his business and risk profile".

Regulation 14 of the MLR 2007 provides that,

> "enhanced due diligence must be carried out in higher risk circumstances..."

Enhanced due diligence can include, under Regulation 14(4):

> "(b) taking adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or occasional transaction".

77. The Respondent failed to take adequate steps to establish the source of funds received from CFS. She failed to obtain bank statements establishing from where the £1.3 million originated. She failed to obtain from DG any documents evidencing the provenance of the £1.3 million. There was no evidence that the Respondent had sight of any company records establishing a link between Mr DG and CFS.

78. The circumstances required much greater scrutiny as to the source of funds and the source of wealth bearing in mind the large sums of money involved, the fact that the monies were sent to the Firm by CFS, who at the time of the investigation the Respondent believed was not a client of the firm (although she was told it was a related company to DG) and the ultimate destination of the monies, to an offshore bank account in Belize.

79. The Warning Card drew attention to a number of relevant indicators and gave warning to solicitors. The following indicators were not properly taken into account:

- "Payments from a third party where you cannot verify the source;
- Movements of funds between accounts, institutions or jurisdictions without reason;
- Never accept instructions to act as a banking facility, particularly if you do not undertake any related legal work".

80. On 16 September 2015, the Respondent sent a letter to the Applicant in which she referred to the failure of the FIO to refer to certain matters that were discussed in interview within the FIR. The matters were: her being a dual qualified solicitor of England and Wales and an Attorney at Law in the Turks and Caicos Islands; and that she had lived and worked in Belize. She went on to say that she was entitled to Belize citizenship and members of her family were Belizean citizens. She also referred to Belize being a high risk jurisdiction but due to her experience in working in Belize and her links there, she believed she had an advantage in business.

81. Although the Respondent had genuine links to Belize, she was still required to have regard to the MLR 07 and the Warning Card. The Respondent accepted that Belize is a high-risk jurisdiction and her failure to take adequate steps to establish the source of the £1.3 million and the source of her client's wealth created a serious risk and demonstrated a failure to run her business on sound financial and risk management principles.

82. The Respondent had failed to comply with her legal and regulatory obligations, specifically the MLR 07 and the Warning Card. The Respondent did have KYC documents for DG. However, she accepted that she failed to monitor the ongoing business relationship with DG by failing to adequately establish the source of the funds received from CFS.

83. The Respondent also accepted that she failed undertake enhanced due diligence on DG by failing to establish the source of the funds from CFS, although she had on initial instructions established the source of his wealth.

Witnesses

84. There were no witnesses as the matter proceeded on the basis of the proposed Agreed Outcome and the Respondent's admission of the facts and matters set out above.

Findings of Fact and Law

85. 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 her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

86. The Respondent had admitted the allegations made against her, which are set out at paragraph 1 above, and the Tribunal was satisfied on the basis of the admission and the facts presented that all the allegations had been proved to the required standard.

Previous Disciplinary Matters

87. There were no previous disciplinary matters recorded against the Respondent.

Mitigation

88. No mitigation was heard, but the representations of the parties were set out in the application for an Agreed Outcome and in the joint Further Submissions document, as summarised below. The representations considered were divided into two broad categories. Allegations 1.1 to 1.6 were characterised as the "accounts and authorisation rules breaches" and allegations 1.7 to 1.9 as the "allegations relating to the receipt and transfer of £1.3 million". The joint written submissions are set out below, with minor editorial corrections.

Accounts and Authorisation Rules Breaches
Culpability

89. The Respondent's culpability was high, as she was an experienced solicitor, having been in practice for some 14 years before setting up her sole practice, the Firm. She was the COLP and COFA of the Firm, and was solely responsible for compliance with the Solicitors' Accounts Rules and the authorisation rules.

90. There was a substantial failure to comply with the Accounts Rules for a period of over two years (April 2013 to May 2015). The accounts were not properly written up to show dealings with client and office money. That resulted in the Respondent being unable to prepare proper reconciliations over that period. The Respondent did not hold client money in a proper client account and did not have a general client account for over two years. Client money was held in client call accounts which could not be operated independently of the Firm's office account. This led to client money being paid into office account and not kept separately.

91. The breaches of the Accounts Rules arose from the Respondent's failure to maintain and establish proper accounting systems at the Firm. Her failure to comply with the Accounts Rules led to a breach of the authorisation rules. The Respondent failed to run her business and carry out her role in the business effectively and in accordance with proper governance and sound financial and risk management principles.

92. Although the Respondent's accounting records were not compliant and she failed to operate a proper client account, there did not appear to have been any loss of client money. The Respondent's new accountants and tax advisers (HHATA) reviewed a sample files and were of the opinion that there was no loss of client money although they could not be certain as to that because of lack of systems and controls in place.

Harm Caused

93. The Respondent's actions had potential to cause loss to client money but, as indicated above, there was no identifiable loss to any client. There had been no claim on the Compensation Fund, which was an indication that client money has not been unaccounted for.

Aggravating Factors

94. The failure to comply with the Accounts Rules lasted for over two years.

Mitigating Factors

95. The Respondent had been incorrectly advised by her accountants as to the correct accounting procedures to comply with AR 2011, when she established the Firm.

96. On discovering the Accounts Rules breaches, the Respondent wrote to the Applicant informing it of the breaches which had been identified following an audit by her then new accountants HHATA.

97. The Respondent rectified the Accounts Rule breaches within a few months after identification. She produced formal accounts ledgers, proper reconciliation statements on a timely basis and operated a general client account.

98. The Respondent admitted her conduct to the FIO and made limited admissions to the allegations within her Answer to the allegations. Subsequently, she made full admissions within her amended Answer. She co-operated with the Applicant.

99. The Respondent had shown insight, as was apparent from her admissions.

100. The Respondent had no previous disciplinary record.

Allegations relating to the Receipt and Transfer of £1.3 million
Culpability

101. The Respondent's culpability was high, as she was an experienced solicitor, sole practitioner, COLP and COFA of the Firm and had direct control over what monies went through the Firm's client bank account. The Respondent failed to give proper consideration as to whether there was an underlying legal transaction for the receipt of £1.3 million into her client bank account and the transfers of £1,269,725 to a bank in Belize. There was also a transfer of £235,000 to her client (CFS) without proper consideration as to the underlying legal transaction. The Respondent allowed her bank account to be used as a banking facility by her client, DG.

102. The Respondent failed to give consideration as to why DG could not have received the monies into his bank accounts, and why he could not have directly transferred the money to the bank in Belize. The Respondent should have exercised greater caution when being involved in a transaction involving such a large sum of money being transferred out of the jurisdiction.

103. The Respondent facilitated the payment of £1,269,725 to the bank in Belize and failed to be alert to the suspicious features of the transaction, which included the monies being received from CFS which was a 'Friendly Society' rather than direct from her client, money being transferred out of the jurisdiction and the absence of bank statements showing where the money had come from, apart from a CFS account ledger which showed that money was being held for a company, AS and M Ltd., and not for DG.

104. The Respondent failed to take adequate steps to establish the source of the £1.3 million. She failed to obtain documents from DG as to the provenance of the monies and the source of his wealth. The Respondent did not have sight of any company records establishing a link between DG and CFS or AS and M Ltd. At the time of the transfers the Respondent did not give proper regard to whether CFS was a client of the Firm.

Harm Caused

105. Public trust in the profession is seriously undermined whenever a solicitor is involved in a suspicious transaction which involves the use of their client account as a bank and a failure on the part of the solicitor to have proper regard to their duties under the Money Laundering regulations and their profession's Warning Cards.

106. The Respondent's independence was compromised in her facilitation of the monies to the bank in Belize. She may have, however unwittingly, effectively facilitated the movement of monies during the course of a suspected pension fraud by her clients. The police have not charged the Respondent with any criminal offence, nor have they charged any of the Respondent's clients with criminal offences as at the date of this hearing; however, it was understood that a decision may be made by the Crown Prosecution Service in respect of her clients in or about the spring of 2017.

Aggravating Factors

107. The Respondent ought reasonably to have known that her conduct was in material breach of obligations to protect the public and the reputation of the legal profession.

108. Had the Respondent given proper scrutiny to whether there was a need for the £1.3 million to pass through her client account, she should have determined (as COLP and COFA), that there was not a sufficient underlying legal transaction to the receipt and transfer and that it was in breach of the Accounts Rules.

109. The Respondent should have been more alert to the suspicious features of the transaction and that her involvement in facilitating the movement of the monies would compromise her independence and undermine public confidence in the reputation of the profession, particularly in light of her confirmation to the bank in Belize that the monies had originated from DG. She accepted that Belize is a high-risk jurisdiction.

110. The Respondent should have been aware that she was not complying with the money laundering regulations in light of the absence of enhanced due diligence, in particular regarding the lack of evidence as to the source of the £1.3 million and the lack of documentary evidence in respect of any link between DG and CFS/AS and M Ltd.

Mitigating Factors

111. The Respondent had previously undertaken work for DG, and he was a client at the time of the transfers; the Respondent trusted him as a client.

112. The Respondent was informed by DG that CFS was a related company and that the monies received from them were the product of property sales and realised investments. In this respect it appeared that the Respondent was deceived by DG.

113. The Respondent had due diligence/KYC documents in relation to DG and JR of CFS.

114. The Respondent had on initial instructions from DG established his wealth.

115. The Respondent set up the bank accounts for the A Foundation through her bona fide companies YES and BEST.

116. The Respondent had genuine links to Belize. She was an attorney at Law in the Turks and Caicos Islands and she had lived and worked in Belize.

117. The Respondent co-operated with the police in providing them with relevant files and information pursuant to production orders served on the Firm and YES in respect of their investigation into her clients.

118. The Respondent denied the allegations in her Answer and Amended Answer, but with the benefit of hindsight, and judging the matter objectively, she now admitted the allegations.

Submissions on the appropriate Sanction

119. The parties made joint submissions to the Tribunal on the question of the appropriate sanction in the Agreed Statement of Facts and Admissions dated 14 February 2017, in the following terms:

119.1 The Respondent failed to comply with fundamental aspects of the Solicitors' Accounts Rules for some two years. Fortunately, it appeared that her failures did not result in loss of clients' money.

119.2 The Respondent allowed her client account to be effectively used as a banking facility, through which she facilitated a suspicious transaction involving the movement of monies of over £1.2 million to an offshore jurisdiction, in circumstances where she failed to undertake proper enhanced due diligence as required by the Money Laundering Regulations.

119.3 The Respondent's conduct in respect of the allegations relating to the receipt and transfer of £1.3 million was very serious. The Respondent should not have allowed her client bank account to be used as a banking facility, should have been alert to the suspicious features of the transaction and undertaken the required due diligence.

119.4 Although no allegation of dishonesty or lack of integrity was made against the Respondent, her conduct seriously undermined public confidence in the reputation of the profession and it was a serious breach of her duty to run her business with proper governance processes and in accordance with sound financial and risk management principles.

119.5 The Respondent's conduct was too serious to warrant "no order" or a reprimand and in all the circumstances a fine was not an appropriate sanction. Her involvement in the allegations relating to the receipt and payment of £1.3 million called into question her judgement and independence, so as to warrant an interference with her right to practise. There was a need to protect the reputation of the legal profession from future harm by the Respondent.

119.6 A striking off order was not merited in light of the absence of dishonesty and/or lack of integrity.

119.7 A suspension of 12 months would not only mark the misconduct, it would ensure that the Respondent was meticulous in her compliance with the rules, regulations and principles in the future. It would uphold public confidence in the reputation of the profession.

120. The division of the Tribunal which considered the proposed Agreed Outcome of suspension for 12 months was not content to approve that outcome, and directed that the parties should supply further information, if available, about whether there had been any losses to clients and the status of the police investigation. The Tribunal also directed the parties to address the question of whether there should be restrictions on the Respondent's practice after the expiry of the proposed period of suspension, and what those restrictions should be.

121. The parties provided further information to the Tribunal dated 3 March 2017, as summarised below:

121.1 There was no evidence of any shortage on client account. The Firm's new accountants had not been able to confirm there was no loss, due to the lack of records in the appropriate form. Neither the FIO nor the intervention agents, when the Firm was intervened in September 2015, had discovered any evidence of a shortage on client account.

121.2 The police investigation of the matter had not been concluded but there did not appear to be any imminent risk that the Respondent would be charged with any offence(s).

122. The parties proposed that the Respondent's practice should be subject to the following restrictions after the expiry of the proposed period of suspension. The Respondent:

122.1 may not be a recognised sole practitioner, manager or owner of an authorised body;

122.2 may not be a COLP or COFA or Money Laundering Reporting Officer for any sole practitioner or authorised body;

122.3 should not be sole signatory to client account or have the power to be able to solely authorise electronic transfers from client account;

122.4 should inform any actual or prospective employer of these conditions and the reasons for them.

123. It was submitted by the parties that the proposed restrictions were reasonable and proportionate to the admitted allegations, were necessary in the public interest and would ensure that public trust in the provision of legal services would be maintained.

Sanction

124. The Tribunal had regard to its Guidance Note on Sanction (December 2016), to all of the facts of the case and the submissions of the parties.

125. The Outcome proposed by the parties was that the Respondent should be suspended for a period of 12 months and thereafter be subject to restrictions. It was submitted that this reflected the serious nature of the allegations against her, as well as taking into account aggravating and mitigating factors.

126. In considering the matter, the Tribunal noted in particular that the Respondent had admitted the allegations in full. There was, accordingly, no need for a trial on the facts and allegations. The Tribunal had to consider whether, in the light of the admitted facts and allegations, the proposed Outcome was just and proportionate. The Tribunal noted that if it were satisfied with the proposed sanction it could proceed to make the necessary Order.

127. The Tribunal found the joint written submissions of the parties to be helpful and comprehensive. It was helpful that the parties had appeared, as directed, to assist the Tribunal in case there were any issues which needed to be clarified. The Tribunal was also able to hear directly from the Respondent that she very much regretted the professional misjudgement which had led to these allegations being brought; the Tribunal accepted that she was remorseful and had proper insight into what had gone wrong.

128. The Tribunal considered carefully the submissions made by the parties with regard to culpability, the harm caused and the aggravating and mitigating factors which were present. It wanted to make clear that this was not a case which involved any dishonesty or lack of integrity on the part of the Respondent.

129. The admitted allegations were serious. The Respondent was personally responsible for what had happened with regard to the accounts and authorisation breaches. That said, she had relied on advice she had been given in setting up her accounts system. The fact that that advice was wrong was not noticed until her new accountants and auditors were appointed. Thereafter, she took steps to rectify her record keeping and

accounts systems. There had been a risk to clients' money but there had been no actual loss.

130. The more serious matter related to the fact that over £1.2 million had passed through the Respondent's client account and been sent overseas without all the proper checks. Those checks and procedures were in place to prevent money laundering or other improper dealing with money, so any breaches – particularly involving such large sums of money – must be regarded as very serious.

131. Although the admitted allegations were serious, the Tribunal was not satisfied that it was necessary or appropriate to strike the Respondent off the Roll of Solicitors. It was clearly inappropriate to make no order, to reprimand the Respondent or to fine her; such sanctions would not protect the reputation of the profession as one whose members could be trusted to the ends of the earth. The Tribunal accepted that a period of suspension of one year would be appropriate and proportionate to reflect the gravity of the misconduct, taking into account the aggravating and mitigating factors noted above.

132. The Tribunal concluded that it would be appropriate to impose some restrictions on the Respondent's work in the future, as proposed by the parties in their further submissions. The misconduct had occurred whilst the Respondent was a sole practitioner, in sole charge of the accounts of her Firm and its compliance with regulations. The public would expect that in future the Respondent would not be in a position where any misconduct of this kind could occur again. Whilst the Tribunal was satisfied that the Respondent had learned her lesson from this series of events, the public would be reassured to know that she would in future be working in an environment with more controls in place to prevent any possible misuse of client account. The Tribunal was satisfied that the restrictions proposed were reasonable and proportionate.

Costs

133. As part of the proposed Agreed Outcome, the parties had agreed that the Respondent should pay the Applicant's costs of the enquiry and proceedings in the sum of £6,000.

134. The Tribunal noted that these costs were significantly less than the costs actually incurred. At the date of commencement of the Tribunal proceedings, the costs had been calculated at about £20,000. The costs of the hearings which had taken place in September and November 2016 had been calculated at about £1,300. The Tribunal did not have up to date information on the overall costs of the case to the date of this hearing. However, the costs calculated – at over £20,000 – appeared broadly reasonable, given the complexity of the investigation (the costs of which were put at just under £12,000) and the steps which had been necessary to prepare the case and deal with matters which had arisen in the course of the proceedings.

135. The Tribunal noted that the figure for the agreed costs had been determined after taking into account the Respondent's financial position. It was also noted that the Respondent had incurred a costs liability in the sum of £15,500 in respect of the intervention, which costs had been paid by the Respondent.

136. Taking into account that the Respondent would be unable to work as a solicitor for a year, the costs already paid in respect of the intervention and that the parties had agreed the costs, the Tribunal was content to approve the proposed costs order in the sum of £6,000.

Statement of Full Order

137.1 The Tribunal Ordered that the Respondent, SUSAN ANITA BARRINGTON-BINNS, solicitor, be suspended from practice as a solicitor for the period of 12 months to commence on the 7th March 2017 and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,000.

137.2. Upon the expiry of the fixed term of suspension referred to above, the Respondent shall be subject to conditions imposed by the Tribunal as follows:

137.2.1 The Respondent may not:

137.2.1.1 Be a recognised sole practitioner, manager or owner of an authorised or recognised body;

137.2.1.2 Be a Compliance Officer for Legal Practice ("COLP") or a Compliance Officer for Finance and Administration ("COFA") or Money Laundering Reporting Officer ("MLRO") for a sole practitioner or authorised body;

137.2.1.3 Be a sole signatory on any client account or have the power to be able to solely authorise electronic transfers from client account;

137.2.2 The Respondent shall inform any actual or prospective employer of these conditions and the reasons for them.

137.3 There be liberty to either party to apply to the Tribunal to vary the conditions set out at paragraph 2 above.

Dated this 29th day of March 2017
On behalf of the Tribunal

A G Gibson
Chairman