

**THE SOLICITORS (SCOTLAND) ACT 1980
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL
(PROCEDURE RULES 2008)**

INTERLOCUTOR

in Complaint

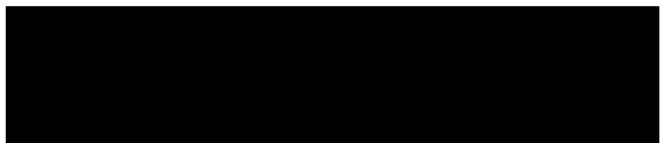
by

THE COUNCIL OF THE LAW SOCIETY OF
SCOTLAND, Atria One, 144 Morrison Street,
Edinburgh (hereinafter referred to as "the
Complainers")

against

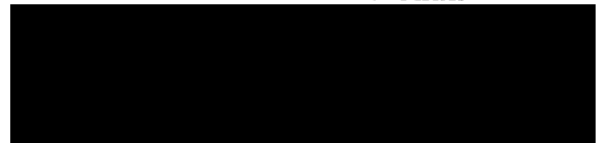
SAAIMA KHALID, JKR Law Limited, 103
West Regent Street, Glasgow (hereinafter
referred to as "the Respondent")

By Video Conference, 15 November 2022. The Tribunal having considered the Complaint dated 16 July 2021 at the instance of the Council of the Law Society of Scotland against Saaima Khalid, JKR Law Limited, 103 West Regent Street, Glasgow; Finds the Respondent not guilty of professional misconduct; Finds no expenses due to or by either party other than the award already made on 18 June 2022; and Directs that publicity will be given to this decision and the Interlocutors and Notes of 21 January 2022, 17 March 2022, 19 April 2022 and 18 June 2022, and that this publicity should include the name of the Respondent, her husband, and the Secondary Complainer, but need not identify any other person.



Catherine Hart

Vice Chair



**THE SOLICITORS (SCOTLAND) ACT 1980
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(PROCEDURE RULES 2008)**

FINDINGS

in Complaint

by

**THE COUNCIL OF THE LAW SOCIETY of
SCOTLAND, Atria One, 144 Morrison Street,
Edinburgh**

Complainers

against

**SAAIMA KHALID, JKR Law Limited, 103
West Regent Street, Glasgow**

Respondent

1. A Complaint dated 16 July 2021 was lodged with the Scottish Solicitors' Discipline Tribunal by the Council of the Law Society of Scotland (hereinafter referred to as "the Complainers") averring that Saaima Khalid, JKR Law Limited, 103 West Regent Street, Glasgow (hereinafter referred to as "the Respondent") was a practitioner who may have been guilty of professional misconduct.
2. There was a Secondary Complainer, Javaid Akhtar, Flat 1/1, 55 Paisley Road West, Glasgow.
3. The Tribunal caused a copy of the Complaint as lodged to be served upon the Respondent. No Answers were lodged for the Respondent.
4. In terms of its Rules, the Tribunal set the matter down for a virtual procedural hearing on 4 October 2021 and notice thereof was served on the Respondent.
5. At the virtual procedural hearing on 4 October 2021, the Complainers were represented by their Fiscal, James Campbell, Solicitor, Edinburgh. The Respondent was present and represented by Michael Foster, Solicitor, Glasgow. The Tribunal agreed to receive Answers from the Respondent although these were late. The virtual procedural hearing was continued to 21 January 2022 for the Fiscal to make enquiries regarding two emails which had been given to him by the Respondent's representative.

6. At the continued virtual procedural hearing on 21 January 2022, the Complainers were represented by their Fiscal, James Campbell, Solicitor, Edinburgh. The Respondent was not present but was represented by Michael Foster, Solicitor, Glasgow. Parties made submissions on the Complainers' motion made under Rule 13 of the Tribunal's Rules. The Interlocutor and Note of 21 January 2022 refers. The virtual procedural hearing was continued to 17 March 2022.
7. At the continued virtual procedural hearing on 17 March 2022, the Complainers were represented by their Fiscal, James Campbell, Solicitor, Edinburgh. The Respondent was not present but was represented by Michael Foster, Solicitor, Glasgow. Parties made submissions on the Complainers' motion made under Rule 50 of the Tribunal's Rules. The Interlocutor and Note of 17 March 2022 refers. The virtual procedural hearing was continued to 19 April 2022.
8. At the continued virtual procedural hearing on 19 April 2022, the Complainers were represented by their Fiscal, James Campbell, Solicitor, Edinburgh. The Respondent was not present but was represented by Michael Foster, Solicitor, Glasgow. The Interlocutor and Note of 19 April 2022 refers. The Tribunal set a hearing in person to take place on 28 June 2022. Notice was served on the Respondent.
9. At the hearing in person on 28 June 2022, the Complainers were represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Respondent was not present but was represented by Michael Foster, Solicitor, Glasgow. The Interlocutor and Note of 28 June 2022 refers. The hearing was adjourned, and a new hearing was set for 13 September 2022, but this was adjourned by the Tribunal. A virtual hearing was set for 15 November 2022 and notice was served on the Respondent. On 12 November 2022, the Respondent's agent, Mr Foster sent an email to the Tribunal Office explaining that he had withdrawn from acting for the Respondent.
10. At the virtual hearing on 15 November 2022, the Complainers were represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Respondent was neither present nor represented. The virtual hearing proceeded in the Respondent's absence. The Fiscal made submissions.

11. Having given careful consideration to the terms of the Complaint and the documents lodged, the Tribunal found the following facts established:-

- 11.1 The Respondent is Saaima Khalid. She was born on 8 October 1983. She was enrolled and admitted as a solicitor on 31 May 2012. She was employed as a Trainee Solicitor by the Ethnic Minorities Law Centre and Rosie Sorrell from 3 March 2011 to 14 March 2013 then as solicitor with Rosie Sorrell until 4 November 2015 (Rosie Sorrell changed its name to Rosemary Sorrell on 3 November 2015) and with Latta Law Limited from 9 November 2015 to 28 June 2018. On 23 July 2018 she became the sole Director of SKOJ Ltd. SKOJ Ltd changed its name to JKR Law Ltd on 9 April 2021.
- 11.2 SKOJ Ltd, which traded as JK Law Solicitors & Notaries Public was a private company limited by shares (registered under Company Number 599098) incorporated on 6 June 2018. At the time of its incorporation the Respondent was the sole Director. Ten ordinary shares had been allotted and all were in her name at incorporation.
- 11.3 On 25 June 2018 SKOJ adopted new specific articles of association. Article 3.2 provides that *“No person shall be capable of being a member of the Company or enjoy any of the rights of members unless he or it is a solicitor or an incorporated practice.”* Article 12.1 provides that *“...a share shall not be offered or issued to, nor shall an option over a share granted to, any person other than a solicitor or an incorporated practice.”* Article 29.1(c) provides that *“The directors shall refuse to register the transfer of a share if the registration of the transfer would result in any person who is not duly qualified to be a member of the Company within the meaning of Article 3.2 becoming a member or enjoying any of the rights of a member.”*
- 11.4 On 26 June 2019 a Confirmation Statement dated 5 June 2019 was lodged electronically with Companies House in respect of SKOJ Ltd. It detailed that five ordinary shares were held by the Respondent and five held by Omar Jamil. Omar Jamil was not a solicitor, registered European lawyer or registered foreign lawyer. The Respondent has subsequently stated that she was unaware that Omar

Jamil held these shares. A consequence of the transfer was that the Respondent no longer held significant control over the company as she had equal shares with another party. By his subscription to one or more shares Omar Jamil became a member, or enjoyed the benefits of being a member, of the incorporated practice of SKOJ Ltd. The Respondent did not notify the Law Society of this change.

11.5 On 29 November 2019 David Cullen, Registrar of the Law Society of Scotland, emailed the Respondent requesting to speak with her urgently in respect of the ownership of her practice. He spoke with the Respondent that day. A Confirmation statement dated 29 November 2019 was subsequently lodged electronically with Companies House. It detailed that ten ordinary shares transferred to her on 22 November 2019.

12. Having considered the foregoing circumstances, the Tribunal found the Respondent not guilty of Professional Misconduct. The Tribunal considered Section 53ZA of the Solicitors (Scotland) Act 1980 and declined to remit the Complaint to the Council of the Law Society of Scotland.

13. Having heard submissions from the Fiscal in relation to expenses and publicity, the Tribunal pronounced an Interlocutor in the following terms:-

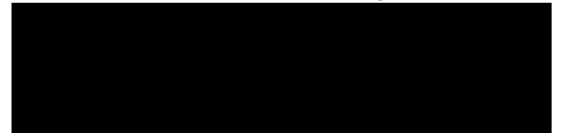
By Video Conference, 15 November 2022. The Tribunal having considered the Complaint dated 16 July 2021 at the instance of the Council of the Law Society of Scotland against Saaima Khalid, JKR Law Limited, 103 West Regent Street, Glasgow; Finds the Respondent not guilty of professional misconduct; Finds no expenses due to or by either party other than the award already made on 18 June 2022; and Directs that publicity will be given to this decision and the Interlocutors and Notes of 21 January 2022, 17 March 2022, 19 April 2022 and 18 June 2022, and that this publicity should include the name of the Respondent, her husband, and the Secondary Complainer, but need not identify any other person.

(signed)

Catherine Hart
Vice Chair

14. A copy of the foregoing together with a copy of the Findings certified by the Clerk to the Tribunal as correct were duly sent to the Respondent by Sheriff Officers on **17 JANUARY 2023**.

IN THE NAME OF THE TRIBUNAL



Catherine Hart

Vice Chair

NOTE

At the Hearing on 15 November 2022, the Tribunal had before it the Complaint as adjusted to 19 July 2022, Answers as adjusted to 2 July 2022, two Inventories of Productions for the Complainers, one Inventory of Productions for the Respondent, and a List of Authorities for the Complainers. The Tribunal also had an email of 12 November 2022 from Mr Foster indicating he had withdrawn from acting for the Respondent after making many attempts to contact her in the weeks before the hearing.

The Fiscal made a motion in terms of Rule 14(4) of the Tribunal Rules 2008 for the Tribunal to proceed to hear and determine the Complaint in the absence of the Respondent. He noted that intimation of the hearing had been given to her at the address in the Complaint in accordance with Rule 11(2)(c). According to Section 64 of the Solicitors (Scotland) Act 1980 (the 1980 Act), any notice or other document which is required or authorised under that Act to be given to, or served on, any person shall be taken to be duly given or served if it is delivered to him or left at, or sent by post to, his last-known place of business or residence. The Fiscal noted that a Judicial Factor had been appointed to the Respondent's business, so she no longer had access to that property. However, there was an ongoing obligation on the Respondent as a solicitor to keep the Society informed of her address (section 8(2) of the 1980 Act). The notice had also been served at a residential address where Sheriff Officers believed the Respondent resided. The Fiscal said the Tribunal must consider fairness but also noted the obligation on the Respondent to engage with the regulator and in this regard referred to GMC-v-Adeogba [2016] EWCA Civ 162. She had instructed a solicitor to deal with this matter. He should have told her about the hearing. There was an obligation on the Respondent to engage with the Law Society and the Tribunal. The Tribunal must consider the protection of the public and whether any further delay and consequent cost would be proportionate.

The Tribunal heard evidence on oath from the Clerk regarding the service of the Notice of Hearing. The Notice of Hearing had been served at the Respondent's last known business address by letterbox on 6 October 2022 and by letterbox at her last known residential address on 5 October 2022.

The Tribunal retired to consider whether to proceed in the Respondent's absence. The Tribunal was satisfied that the Respondent had been given proper notice of the hearing as notices had been left at her business and residential addresses.

The Tribunal considered whether it was fair to proceed in the Respondent's absence. The Tribunal had regard to the principles contained in R-v-Jones [2002] UKHL 5 and the need to exercise its discretion in this matter "*with great caution and close regard to the overall fairness of the proceedings*" and the guidance in GMC-v-Adeogba [2016] EWCA Civ 162.

The Respondent had an obligation to inform the Society of any changes to her contact addresses. She was aware of the proceedings against her. She had attended a procedural hearing on 4 October 2021 and had until recently instructed a solicitor to appear on her behalf. The Respondent had been personally ordained to provide a current residential address to Tribunal, but she had failed to do so. If the Tribunal heard the case in the Respondent's absence, there would be a disadvantage to her in being unable to give her account of events. However, there was no reason to be confident she would attend on another occasion if the hearing was adjourned. It is in the public interest that regulatory proceedings take place within a reasonable time. This case was over a year old, and the substantive hearing had already been adjourned twice. The fair, economical, expeditious and efficient disposal of allegations against solicitors was an important consideration. Failing to hear the case would not be in the public interest, or in the interests of the Secondary Complainer. A fair hearing was possible. The Tribunal had to be satisfied regarding the question of misconduct, whether or not the Respondent was present. In all these circumstances, the balance lay in favour of proceeding in the Respondent's absence. Therefore, the Tribunal granted the Fiscal's motion to proceed with the hearing.

No witnesses were called for the Complainers. The Fiscal moved the Tribunal under Rule 14(5) to take account of the productions lodged by the Complainers. Although the Respondent had also lodged productions, the Fiscal submitted that these had no evidential value.

SUBMISSIONS FOR THE COMPLAINERS

The Fiscal summarised the terms of the Complaint and referred the Tribunal to the pertinent productions lodged by the Complainers. A confirmation statement for the Respondent's company dated 5 June 2019 showed that the Respondent and her husband each held 5 ordinary shares in the company. The Respondent had sole control of her company before this date. The Fiscal submitted that only the Respondent or someone authorised by her could have made those changes. By becoming a shareholder, the Respondent's husband became a member of the company. The Respondent did not notify the Law Society of this change of membership. The Law Society contacted the Respondent when it became aware

of the issue in November 2019. She took immediate steps to rectify the problem and the relevant confirmation statement showed that the shares were transferred on 22 November 2019.

The Fiscal outlined the Practice Rules which had been breached. In his submission, breach of these rules constituted professional misconduct. The rules protect the public. Solicitors have duties to clients and responsibility for money entrusted to them. The Society therefore puts limits on who can control incorporated practices operating as legal firms. When her husband held half the shares in her company, the Respondent was no longer in control of it. At worst, she permitted the transfer. At best, she failed to ensure there were proper controls in place to prevent it. There was no direct evidence available to the Tribunal regarding the circumstances of the transfer. If the Respondent had allowed a contractor to act on her behalf, that person ought to have been told that the Company must act in accordance with its Articles of Association. She should have told her agent about the specific controls on legal firms and how a legal practice is allowed to operate.

The Tribunal asked the Fiscal how the Respondent's knowledge of the transfer affected the question of misconduct. The Fiscal submitted that the Respondent was ultimately in control of her company. She was the sole director and shareholder. She chose to instruct someone else to deal with certain aspects of running her company. The Tribunal does not know the nature of those instructions. The Tribunal does not know the agent's qualifications. It does not know when he was instructed or the services he offered. The Tribunal does not know if the Respondent gave him the Articles of Association. The Tribunal does not know if the Respondent made him aware of the obligations on her and her company. The Tribunal does not know if the Respondent said the agent could take instructions from her staff. The Tribunal does not know if the agent deliberately ignored the Articles of Association.

The Fiscal said there were elements which suggested the Respondent was aware of the transfer. She was in control of the service her agent provided. She should have put in relevant checks and controls. Ignorance of the rules is not an excuse or a defence. The Fiscal drew an analogy with a solicitor failing to comply with the Accounts Rules. In his submission, the Respondent gave away control of her company. She had an obligation to supervise staff and those providing services. In the same way that a solicitor cannot rely on an inaccurate account prepared by a law accountant, responsibility for this situation lay with the Respondent. The fact control was so easily lost suggests the Respondent is culpable. It was the Fiscal's position that even if the Tribunal accepted that the Respondent did not know anything about the transfer, and the situation was due to the mistake or incompetence of her agent, this

could still be professional misconduct. This was because she had not instituted any checks and balances to prevent the situation occurring. During this period, she no longer had control of the client accounts.

The Tribunal referred the Fiscal to documents lodged for the Respondent tending to show that she did not have knowledge of the transfer. The Fiscal highlighted that the Tribunal did not know where these documents had come from. No one had spoken to them. They were not agreed.

The Tribunal noted there was no averment of misconduct in relation to lack of supervision. The Fiscal said that the Complainers were relying on the rules the Respondent had breached. The situation happened under her supervision. It was not a defence to say, "a big boy did it and ran away". Solicitors have obligations to ensure that only solicitors have control of solicitors' firms. Solicitor and client money was at risk. The Respondent did not have control of her company for a significant time.

The Tribunal asked whether there were any actual consequences which flowed from the breach of rules. The Fiscal said he had no information on this. However, a competent and reputable solicitor would maintain control of her firm. No employee of the firm should be able to give away control. It was serious and reprehensible that those steps were not taken in this case. The degree of culpability was high.

The Respondent should have told her agent that only she could give shares away. She should have told her employee that only she could control that. She could have insisted that all instructions to her agent were to be checked by her. There is no explanation of the agent's view of the Articles of Association. If the Respondent did not know about the transfer, this was as a result of her failure to put the requisite checks in place.

In answer to a question from the Tribunal, the Fiscal agreed that Mr Foster had asked the agent for detailed information. However, the Fiscal did not know what the agent had sent to Mr Foster. Recovery of documents had been sought. This was all the Respondent had chosen to lodge. The Fiscal did not know if anything else had been provided.

The Tribunal noted that the text exchange contained at Production 13 for the Respondent appeared to pre-date the Respondent's conversation with Mr Cullen referred to at paragraph 3.5 of the Complaint. The Fiscal indicated that he understood this text exchange arose in relation to a different issue when the Respondent had attempted to appoint as a director a solicitor with less than three years' experience. He said it had no bearing on the present matter. Mr Cullen contacted the Respondent on 29 November 2019

about the present matter. She immediately contacted her accountant, and he actioned the share transfer on that same day. The date on the confirmation statement is 22 November 2019 because Companies House can allow recording to be backdated by one week.

DECISION

On 6 June 2018, the Respondent, who is a solicitor, became the sole director and shareholder of a private company limited by shares. That company was an “incorporated practice” as defined by the Law Society of Scotland Practice Rules 2011. On 25 June 2018, the company adopted specific Articles of Association which provided that the company had to comply with the Law Society’s Practice Rules on incorporated practices.

The Law Society’s Practice Rules provide that a body corporate must be controlled exclusively by solicitors, firms of solicitors, registered European lawyers, registered foreign lawyers or other incorporated practices (D5.2(b)). The membership of a body corporate must be restricted to the same categories of persons (D5.2(c)). Members and directors must ensure that the incorporated practice gives effect to the conditions of its incorporation documents (D5.6.1). Incorporated practices must notify the Society of any changes to the members or directors (D5.6.3). They must send to the Society a copy of all documents which have to be lodged with the Registrar of Companies (D5.6.4). They must send to the Society a copy of all certificates issued by the Registrar of Companies (D5.6.5). In general, no person who is not a member of the incorporated practice (and duly qualified to be such a member) shall enjoy any of the rights of membership (D5.6.6). Only specific persons can be managers of incorporated practices. No other categories of person or entity can hold any ownership or control any interest in, or manage a body recognised as an incorporated practice (Guidance on D5).

A confirmation statement dated 5 June 2019 was lodged with Companies House indicating that five ordinary shares were held by the Respondent and five were held by Omar Jamil. Omar Jamil was not qualified to become a member of the company either in terms of the Practice Rules, or the company’s Articles of Association. All the Practice Rules described in the paragraph above were breached.

The Complainers alleged that only the Respondent, or someone authorised by her, could have permitted the transfer of shares and the resulting confirmation statement. She had been the sole director and member at the time of the transfer. Therefore, they submitted, only she could have allowed it.

The Complaint of 16 July 2021 (and the adjusted Complaint) reflected that the Respondent claimed to have been unaware of the transfer. She adhered to this position at the procedural hearing on 4 October 2021 and throughout the case. However, despite being given repeated opportunities, and latterly, being directed to provide particular documents in support of this position, the Respondent lodged only productions 1-13 in the Respondent's Inventory of Productions. No witnesses spoke to these documents at the hearing.

Tribunal Rule 14(5) provides that in any case where the Respondent fails to appear or to be represented at the hearing, and the Tribunal decides to proceed to hear and determine the Complaint in the absence of that Respondent, the Tribunal shall take into account all the documents lodged with the Clerk, whether by the principal or Secondary Complainer or by the Respondent.

Production 2 for the Respondent was an email which bore to be from the Respondent's accountant to Mr Foster on 3 October 2021, which stated that:

"To my knowledge, Mr Jamil was a business development officer for Miss Khalid's company. A junior member of my staff had spoken with Mr Jamil who had requested that shares be transferred to him for his efforts. Without consulting with anyone she went ahead and updated the register at Companies House.

When Miss Khalid contacted me to find out why this had happened this was the first time I had knowledge of the transfer. I researched whether the transfer was legitimate and when Miss Khalid informed us that it was not the error was immediately reversed.

I dare say that this error played a large part in Miss Khalid deciding to change agents. It is my opinion that Miss Khalid would not have known about the change in shareholding until she was informed by the Law Society."

Production 8 for the Respondent was an email which bore to be from the Respondent's accountant to Mr Foster on 20 March 2022, which stated that:

"We would be happy to provide written confirmation that the change in shareholding was an administrative error by our firm which we rectified as soon as it was pointed out to us."

Production 11 for the Respondent was an email which bore to be from the Respondent's accountant to Mr Foster on 20 April 2022, which had two attachments. One of those attachments was a note said to

have been handwritten by an employee of the accountancy firm. It was contained at Production 12 for the Respondent, and was as follows:

"21/06/19

Call from Omar Jamil, he is asking to transfer 5 SKOJ shares to him. Actioned on 26/06/19."

The onus of proof in a professional misconduct case before this Tribunal is always on the Complainers. The standard of proof applied is that beyond reasonable doubt. The benefit of any reasonable doubt must be given to the Respondent. Respondents are not obliged to attend hearings before this Tribunal, or to give evidence at them.

The Tribunal considered carefully the weight to be attached to the Respondent's productions when these had not been spoken to and were not the subject of agreement. While the weight to be attached to these items must be low, the documents could not be ignored, given the terms of Rule 14(5). The question for the Tribunal was whether the information within those productions gave rise to a reasonable doubt about an essential element of the Complainers' case.

The Tribunal was satisfied beyond reasonable doubt that the Respondent had acted in the manner set out in the findings in fact above. A transfer of shares was made. This was in breach of the Practice Rules at D5 relating to the control and ownership of corporate bodies and the Articles of Association. These rules exist for the protection of the public and it is very important that solicitors comply with them. The breach of the rule was ongoing for four months.

The Tribunal's findings in fact mirror the averments of fact in the Complaint except for the following sentence:

"The Respondent, or someone authorised by her, was the only person who could have authorised the transfer of shares and resulting Confirmation Statement."

The Tribunal was not satisfied beyond reasonable doubt that this was correct, given the position advanced by the Respondent which appeared on the face of it to be supported by the emails and file note quoted above provided by the accountant. It was clear that the information before the Tribunal was incomplete. The Complainers had attempted to recover certain evidence from the Respondent by asking the Tribunal to invoke its powers under Rules 13 and 50. The information requested had not been

provided to the Complainers or the Tribunal. No other steps appear to have been taken to recover any available evidence or secure the attendance of witnesses at the hearing. The Respondent had failed to provide the information the Complainers had repeatedly sought from her in this case. She had also failed to cooperate with the Tribunal. However, even in these circumstances, the onus of proof rests on the Complainers. The matter having been put in issue by the Respondent at an early stage, the Complainers had failed to discharge the burden of proof. Even if only very minimal weight was given to the Respondent's productions, a reasonable doubt lingered in the mind of the Tribunal regarding the circumstances of the transfer.

The Fiscal suggested that the Respondent could still be guilty of professional misconduct even if she had been completely unaware of the transfer. He said that if she had been unaware of the position, this was because she had failed to adequately supervise her staff and create sufficient checks to prevent such a situation occurring. The Tribunal noted that there were no averments to this effect in the Complaint.

The Tribunal had regard to the definition of professional misconduct contained in Sharp v Council of the Law Society of Scotland 1984 SLT 313 which states that,

"There are certain standards of conduct to be expected of competent and reputable solicitors. A departure from these standards which would be regarded by competent and reputable solicitors as serious and reprehensible may properly be categorised as professional misconduct. Whether or not the conduct complained of is a breach of rules or some other actings or omissions, the same question falls to be asked and answered and in every case it will be essential to consider the whole circumstances and the degree of culpability which ought properly to be attached to the individual against whom the complaint is to be made."

Breach of a rule may constitute professional misconduct. However, the test for misconduct goes beyond breach of a rule. To make a finding of misconduct, the Tribunal would have to be satisfied that the Respondent's conduct represented a departure from the standards of competent and reputable solicitors in all the circumstances. The issue of the Respondent's knowledge or intention was relevant when considering all the circumstances and her individual culpability.

Only partial information was available to the Tribunal. This made it difficult to consider the whole circumstances of the transfer. However, in considering all the information presented to it, the Tribunal had a reasonable doubt about whether the Respondent had known about the transfer. This doubt arose

principally from the information contained in the emails from the Respondent's accountant, but was also supported by the fact that once alerted to the issue, the Respondent immediately took steps to have the situation rectified. In those circumstances, the Tribunal considered that the degree of culpability which ought properly to be attached to the Respondent was low. The Tribunal therefore considered that her conduct was not a serious and reprehensible departure from the standards of competent and reputable solicitors. She was therefore not guilty of professional misconduct.

The Tribunal was obliged to consider if the Respondent might be guilty of unsatisfactory professional conduct. Unsatisfactory professional conduct is defined as professional conduct which is not of the standard which could reasonably be expected of a competent and reputable solicitor. The facts proved did not impinge on the reputation of the solicitor. Carelessness or incompetence alone would not be sufficient to satisfy this test. A competent and reputable solicitor could have found themselves in the same situation as the Respondent. Therefore, the Tribunal declined to remit the complaint to the Council of the Law Society of Scotland under Section 53ZA of the Solicitors (Scotland) Act 1980.

The Fiscal had no comment to make regarding publicity. He moved the Tribunal to make no award of expenses, other than the award already made which remains outstanding.

The Tribunal noted that an award of expenses had already been made on 28 June 2022 but otherwise, made no award of expenses. The Respondent had been successful and might ordinarily have been expected to receive an award in her favour. However, much of the expense in this case had been occasioned by her lack of cooperation in this case. It was therefore appropriate to make no further award of expenses in this case. Publicity will be given to the decision and will include the name of the Respondent, her husband, and the Secondary Complainer, in accordance with the Tribunal's obligations under paragraphs 14 and 14A of Schedule 4 to the Solicitors (Scotland) Act 1980. Publicity will also be given to the Tribunal's Interlocutors and Notes of 21 January 2022, 17 March 2022, 19 April 2022 and 18 June 2022.

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Catherine Hart
Vice Chair