SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 — Case No. 11805-2018

BETWEEN:

SOLICITORS REGULATION AUTHORITY — Applicant

and

KHALID MOHAMMED SHARIF — Respondent

Before:

Mr L. N. Gilford (in the chair)
Mr P. Booth
Mr P. Hurley

Date of Hearing: 11 December 2018

Appearances

Andrew Tabachnik QC of 39 Essex Chambers, 81 Chancery Lane, London WC2A 1DD, instructed by Mark Whiting, solicitor of Capsticks Solicitors LLP, 1 St George's Road, Wimbledon, London SW19 4DR for the Applicant.

Nicholas Bacon QC of 4 New Square, Lincoln's Inn, London WC2A 3RJ instructed by Jonathan Greensmith, solicitor of Keystone Law, 48 Chancery Lane, London WC2A 1JF for the Respondent.

JUDGMENT

Allegations

1. The allegations against the Respondent made by the Solicitors Regulation Authority ("SRA") were that whilst a director of and practising as a solicitor for Child & Child, currently Nova North, 11 Bressenden Place, London SW1E 5BY ("the Firm"):

In relation to the E Transaction and his clients, the X Clients:

1.1 Between around February 2015 and April 2016, he failed to take any or any adequate steps to ascertain, from publicly available information or at all, at the time of acting for them, whether the X Clients were:

(a) politically exposed persons, pursuant to Regulation 14 of The Money Laundering Regulations 2007 (the "Regulations"); and/or

(b) reportedly linked with the proceeds of crime;

and in doing so failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011 (the "Code") and breached Principles 6 and 7 of the SRA Principles 2011 (the "Principles").

1.2 Between around February 2015 and April 2016, he failed to apply enhanced customer due diligence, pursuant to Regulation 14 of the Regulations, in respect of the X Clients, in a situation:

(a) which by its nature presented a higher risk of money laundering; and/or

(b) wherein the customer had not been physically present for identification purposes; and/or

(c) wherein he proposed to have a business relationship or carry out an occasional transaction with a politically exposed person;

and in doing so failed to achieve Outcome 7.5 of the Code and breached Principles 6 and 7 of the Principles.

1.3 Between around February 2015 and April 2016, he failed to take any or any adequate steps to confirm his client's instructions, in that he accepted instructions from Y and/or P1 on behalf of the X Clients without ensuring that Y and/or P1 were properly authorised to give such instructions; and in doing so failed to achieve Outcome 1.2 of the Code and breached Principles 4, 5 and 6 of the Principles.

1.4 Between around February 2015 and April 2016, acted in the E Transaction in circumstances which disclosed a significant risk that money laundering was taking place; and in doing so breached Principles 2 and 6 of the Principles.

In relation to the Y Gift matter and his client, Y:

1.5 Between around November 2013 and March 2014, failed to conduct ongoing monitoring, pursuant to Regulation 8 of the Regulations, of his business relationship

with Y at the time of acting for him in the Y Gift matter, notwithstanding the risk factors in the transaction; and in doing so failed to achieve Outcome 7.5 of the Code and breached Principles 6 and 7 of the Principles.

1.6 Between around November 2013 and March 2014, acted in the Y Gift matter in circumstances which disclosed a significant risk that money laundering was taking place; and in doing so breached Principles 2 and 6 of the Principles.

Documents

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

- Notice of Application dated 22 March 2018
- Rule 5 Statement and Exhibit 1 dated 22 March 2018
- Witness Statement of Jonathan Chambers Forensic Investigation Team Leader
- Respondent's Answer to the Rule 5 Statement dated 29 May 2018
- Respondent's witness statement dated 7 December 2018
- Parties Agreed Position Document of 11 December 2018
- Applicant's Schedule of Costs dated 4 December 2018

Preliminary Matters

3. The parties jointly applied to withdraw a number of Principle breaches and failure to achieve specified outcomes that were alleged in the Rule 5 Statement. The Respondent had made a number of admissions which went to the gravamen of the matters alleged. It was submitted by the parties that to pursue the additional breaches was disproportionate.

4. The Tribunal considered that given the nature and extent of the Respondent's admissions, it was both proportionate and in the interests of justice to accede to the joint application. Accordingly, the application for withdrawal was granted. The allegations pursued were those cited above.

Factual Background

5. The Respondent was admitted to the Roll in July 2005. He held a current practising certificate which was free from conditions. He continued to be a director and shareholder of the Firm, which he was at all the relevant times. In August 2015, the Respondent became the Firm's Money Laundering Reporting Officer ("MLRO"). In 2016, Colleague H was appointed as an additional MLRO and they operated as joint MLROs until the Respondent stood down on 8 August 2016.

6. The Firm's specialist practice area is property law. Its client base included a number of high-net worth foreign nationals.

<u>The E Transaction</u>

7. The E Transaction involved the Firm instructing Mossack Fonseca ("MF"), a Panama based law firm to incorporate E (a company) in the British Virgin Islands ("BVI"). The X Clients were to be the beneficial owners of E. E was the purchaser of two

properties in London. The transaction involved the purchase of 2 flats that were to be amalgamated into one. The combined price was to be £59.5 million of which £3 million was the cost of the amalgamation works.

8. The transaction was introduced to the Firm by Y, who was separately represented in this transaction as the vendor. Y was a longstanding client of the Firm. Contracts were exchanged on 22 April 2015 with completion scheduled for 2017. Payments totalling £14.3 million were made. The E Transaction did not reach completion. The X Clients were reimbursed (save for developer's expenses).

9. On 26 February 2015, the developer emailed the Respondent with the Heads of Terms for the sale of the properties. On the same date Y emailed the Respondent and the developer confirming that he would provide the 'Know Your Client' (KYC) information. On 3 March 2015, the Respondent emailed Y confirming that he had "been through the ID documents and am pleased to confirm that they are all in order and are perfectly sufficient for my purposes". The ID documents consisted of certified copy passport pictures, ID cards and extracts of accounts for the years 2011, 2012 and 2013.

10. On 4 March 2015, the Respondent signed a customer due diligence ("CDD") form in which he confirmed that the X Clients were classified as requiring standard CDD. The form also detailed that the X Clients had not been met. On an MF Order Form for "New Formation/Purchase Request" dated 23 March 2015 the Firm checked the "no" box in response to the direction "Please indicate if any of the persons that will be mentioned in this form are Politically Exposed Persons". The names, addresses and citizenships of the X Clients were entered on the Form under the 'Beneficial Owner Information' section of the Form.

Witnesses

11. None.

Findings of Fact and Law

12. 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 his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Tribunal considered all the evidence, together with the submissions of both parties.

13. **Allegation 1.1 - Between around February 2015 and April 2016, he failed to take any or any adequate steps to ascertain, from publicly available information or at all, at the time of acting for them, whether the X Clients were: (a) politically exposed persons, pursuant to Regulation 14 of The Money Laundering Regulations 2007 (the "Regulations"); and/or (b) reportedly linked with the proceeds of crime; and in doing so failed to achieve Outcome 7.5 of the Code and breached Principles 6 and 7 of the Principles.**

The Applicant's Case

13.1 Mr Tabachnik QC referred the Tribunal to Money Laundering Regulations in force at the time of the E Transaction, which set out the requirements for CDD, including in respect of politically exposed persons ("PEPs"). Regulation 14(5) defined PEPS as:

(i) A person who is or has, at any time in the preceding year, been entrusted with a prominent public function by a state other than the UK; an EU institution; or an international body.

(ii) An immediate family member of anyone listed in (i) above.

(iii) A known close associate of anyone listed in (i) above.

13.2 Regulation 7(1) provided that a relevant person must apply CDD when he established a business relationship or carried out an occasional transaction. The meaning of CDD measures was given in Regulation 5, which included (among other things) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source.

13.3 Regulation 7(3) required a relevant person to:

(a) determine the extent of CDD measures on a risk-sensitive basis depending on the type of customer, business relationship, product or transaction; and

(b) be able to demonstrate to his supervisory authority that the extent of the measures is appropriate in view of the risks of money laundering.

13.4 Regulation 8 stipulated a requirement to conduct ongoing monitoring. Where a relevant person proposes to have a business relationship with a PEP, he must undertake the enhanced CDD steps as set out in Regulation 14.

13.5 The Respondent failed to take adequate steps to ascertain the status of the X Clients as was required by the Regulations. It was submitted that given the status of the X Clients, they clearly fell within the definition of PEPs in Regulation 14(5). The Respondent did not dispute that the X Clients were PEPs. In his interview he confirmed stated that he had not undertaken any internet searches; he described the failure to do so as a "clear omission". Further, the Respondent had not asked either the X Clients or Y about their status.

13.6 By failing to comply with the Regulations, the Respondent had failed to comply with legislation applicable to his business including anti-money laundering legislation and thus had failed to achieve Outcome 7.5 of the Code. Further he had failed to comply with his legal and regulatory obligations in breach of Principle 7. In failing to take any, or any adequate steps to ascertain the status of the X Clients, the Respondent had failed to behave in a way that maintained the trust the public place in him and in the provision of legal services in breach of Principle 6.

The Respondent's Case

13.7 The Respondent admitted that he failed, between February 2015 and April 2016, to take adequate steps to ascertain (whether by way of internet search, or by any other means such as direct inquiries with the X Clients or P1) whether the X Clients were PEPs, pursuant to regulation 14 of the Regulations. The Respondent admitted that the X Clients were PEPs, and that an internet search in March 2015 would likely have disclosed that they were PEPs and were reportedly linked with the proceeds of crime. The Respondent admitted, as he had done in his EWW response, that he "did not consider whether the [X Clients] were PEPs". The Respondent further admitted that those failings caused the 4 March 2015 KYC form and the 23 March 2015 form to be completed inaccurately. The Respondent admitted that there was no basis for the answer "no" to the question whether the X Clients were PEPs. In consequence of the foregoing, the Respondent admitted that he breached regulation 14 of the Regulations, and failed to comply with the Firm's money laundering policy. Accordingly, the Respondent admitted that he breached Outcome 7.5, and Principles 6 and 7.

The Tribunal's Findings

13.8 The Tribunal found allegation 1.1 proved beyond reasonable doubt on the facts and the evidence. The Tribunal considered that the Respondent's admission was properly made.

14. **Allegation 1.2 - Between around February 2015 and April 2016, he failed to apply enhanced customer due diligence, pursuant to Regulation 14 of the Regulations, in respect of the X Clients, in a situation: (a) which by its nature presented a higher risk of money laundering; and/or (b) wherein the customer had not been physically present for identification purposes; and/or (c) wherein he proposed to have a business relationship or carry out an occasional transaction with a politically exposed person; and in doing so failed to achieve Outcome 7.5 of the Code and breached Principle 6 of the Principles.**

The Applicant's Case

14.1 Regulations 14 set out circumstances in which enhanced CDD and ongoing monitoring are required. These included:

(i) where the customer had not been physically present for identification purposes (Regulation 14(2));

(ii) where a relevant person proposed to have a business relationship or carry out an occasional transaction with a PEP (Regulation 14(4)); and

(iii) in any other situation which by its nature can present a higher risk of money laundering or terrorist financing (Regulation 14(1)(b))

14.2 The Firm's own policy stated, in relation to "Non face-to-face clients": "Where a client is a natural person and they are not physically present for identification purposes, you must undertake enhanced due diligence."

14.3 When completing the KYC form, notwithstanding that the Respondent confirmed that the X Clients had not been met by a member of the Firm, the Respondent gave no reasons as to why the X Clients were not to be subject to enhanced CDD.

14.4 Notwithstanding the regulatory requirements to do so, the Respondent failed to apply the appropriate level of CDD. In so doing, he failed to achieve Outcome 7.5 of the Code and breached Principle 7 of the Principles. For the reasons already detailed in paragraph 13.6 above, the Respondent also failed to maintain the trust the public placed in him and in the provision of legal services in breach of Principle 6.

The Respondent's Case

14.5 The Respondent admitted that he had failed, between February 2015 and April 2016, to take adequate steps to apply enhanced customer due diligence (including, by way of appropriate internet searches), in a situation (a) which presented grounds for suspicion that money laundering may be taking place (as particularised under allegation 1.4 below); (b) where the clients had not been physically present for identification; and (c) where the clients were PEPs. In consequence, the Respondent admitted that he breached Regulations 14(1)(b), 14(2) and 14(4) of the Regulations. Accordingly, the Respondent admitted that he breached Outcome 7.5, and Principles 6 and 7.

The Tribunal's Findings

14.6 The Tribunal found allegation 1.2 proved beyond reasonable doubt on the facts and the evidence. The Tribunal considered that the Respondent's admission was properly made.

15. **Allegation 1.3 - Between around February 2015 and April 2016, he failed to take any or any adequate steps to confirm his client's instructions, in that he accepted instructions from Y and/or P1 on behalf of the X Clients without ensuring that Y and/or P1 were properly authorised to give such instructions; and in doing so failed to achieve Outcome 1.2 of the Code and breached Principles 4, 5 and 6 of the Principles.**

The Applicant's Case

15.1 The Respondent confirmed in his interview that not only had he not met the X Clients, but that there had been no direct communication with them at all, and all written correspondence had sent to P1. There was no signed authority from the X Clients providing authority for P1 or Y to represent them. Further, there was no information of the Firm's file explaining P1's role.

15.2 As to the Respondent's suggestion that he would have met the X Clients at some point before the conclusion of the transaction, the transaction had already reached an advanced stage:

- E had been incorporated;

- The Respondent signed the contract on behalf of the X Clients on the purported authority of P1; and

- Between March and December 2015, the X Clients made payments to the Firm totalling £14.3 million

Mr Tabachnik QC submitted that these were matters on which it was necessary for the Respondent to confirm his clients' instructions.

15.3 Y had also provided instructions on behalf of the X Clients. On 3 March 2015, the Respondent asked Y to confirm that the X Clients would "be the UBOs [ultimate beneficial owners] and they will own shares in the SPV 50:50 or otherwise". Y responded on the same day to confirm that "the SPV will be owned 50-50 by [the X Clients] … the funds will be transferred from the personal accounts of [the X Clients] …". Furthermore, Y, who was a party on the other side of the transaction, had provided the KYC documents on behalf of the X Clients.

15.4 Mr Tabachnik QC submitted what was of concern was whether the X Clients had been fully informed throughout. By not establishing a separate line of communication with his clients, he was unable to confirm instructions. He could not ensure that he was acting in the best interests of his clients, and thus the Respondent failed to act in their best interests or to provide a proper standard of service to them, in breach of Principles 4 and 5. As such, the Respondent failed to provide services to the X Clients in a way that protected their interests in the matter, subject to the proper administration of justice and thus had failed to achieve Outcome 1.2 of the Code. His actions would not maintain the trust that the public placed in solicitors, and so the Respondent breached Principle 6.

The Respondent's Case

15.5 The Respondent admitted that he failed to confirm in writing with the X Clients that he was authorised to act on the instructions of P1. The Respondent exchanged contracts on the property, and transferred a significant sum on the instructions of P1, and without written confirmation to relevant effect from the X Clients. Accordingly, the Respondent admitted that he had failed to achieve Outcome 1.2 and had breached Principles 4, 5 and 6.

The Tribunal's Findings

15.6 The Tribunal found allegation 1.3 proved beyond reasonable doubt on the facts and the evidence. The Tribunal considered that the Respondent's admission was properly made.

16. **Allegation 1.4 - Between around February 2015 and April 2016, acted in the E Transaction in circumstances which disclosed a significant risk that money laundering was taking place; and in doing so breached Principles 2 and 6 of the Principles.**

The Applicant's Case

16.1 Mr Tabachnik submitted that the E Transaction presented a higher risk of money laundering on account of any or all or a combination of the various warning signs inherent in the matter:

- the X Clients were new clients with whom the Firm had not met, spoken with or corresponded directly;
- the use of one or more intermediaries to give instruction and to provide KYC information, including Y, the vendor on the other side of the transaction;
- the very high value of the transaction (£59.5 million) even allowing for the fact that the purchase was of two (amalgamated) residential properties in an exclusive London neighbourhood;
- the use of a BVI company to hold UK property for foreign nationals;
- the use of foreign bank accounts;
- the monies used in the transaction originating from a country about which the Respondent knew little.

16.2 The SRA's "Warning notice" issued on 8 December 2014, and in place at the time of the E Transaction, included the following warning signs:

- Uses an intermediary, or does not appear to be directing the transaction, or appears to be disguising the real client;
- Size, nature, frequency or manner or execution;
- Involving unnecessarily complicated structures or steps in transaction.

16.3 Similar risk factors or warning signs were listed in the Firm's AML policy. The warning signs disclosed an objective risk that money laundering was taking place. In particular, the size of the payments, the source of the funds being Azerbaijan, and the use of off-shore companies presented a significant risk. The Respondent had not undertaken internet searches in respect of the X Clients, applied enhanced CDD, or established direct contact with his clients.

16.4 Continuing to act in the presence of the above circumstances gave rise to an objective significant risk of breaching the Regulations, being a conduit for money laundering, and/or undermining public confidence in the profession. The risk factors were multiple and obvious such that the Respondent ought to have concluded that he should not act.

16.5 The Respondent breached Principle 2 by failing to act with integrity, as recently considered in Wingate v Solicitors Regulation Authority [2018] EWCA Civ 366, where it was said that integrity connotes adherence to the ethical standards of one's own profession. A solicitor acting with moral soundness, rectitude and steady

adherence to an ethical code would have applied anti-money laundering principles diligently and would have determined not to act in the particular circumstances of the E Transaction, where there was, objectively, a significant risk that money laundering was taking place. The Respondent's actions also failed to maintain the trust the public placed in the profession, in breach of Principle 6.

The Respondent's Case

16.6 The Respondent admitted that, between February 2015 and April 2016, he acted in the E Transaction in circumstances where there were grounds to suspect that money laundering may be taking place. Such grounds to suspect included (considered cumulatively): (a) that the Respondent was acting for new clients about whom he knew little, and where he had no proper basis for discounting their status as PEPs (not having considered the question); (b) the high value of the E Transaction; (c) the use of an intermediary and a BVI company to hold the property; (d) that the money was coming from a country about which the Respondent knew little, and he had conducted no research into whether there was a risk of corruption by state officials in that country, or whether that was relevant to the E Transaction; and (e) the Respondent had no independent corroboration of the matters stated in the bank letter provided to him.

16.7 The Respondent admitted that he should have made further inquiries before accepting or continuing with instructions. Accordingly, he admitted that his conduct, in failing to pay proper regard to his obligations under the Money Laundering Regulations, fell materially below the standards expected of a senior solicitor in his position, and amounted to breaches of Principles 2 and 6.

The Tribunal's Findings

16.8 The Tribunal found allegation 1.4 proved beyond reasonable doubt on the facts and the evidence. The Tribunal considered that the Respondent's admission was properly made.

17. **Allegation 1.5 - Between around November 2013 and March 2014, failed to conduct ongoing monitoring, pursuant to Regulation 8 of the Regulations, of his business relationship with Y at the time of acting for him in the Y Gift matter, notwithstanding the risk factors in the transaction; and in doing so failed to achieve Outcome 7.5 of the Code and breached Principles 6 and 7 of the Principles.**

The Applicant's Case

17.1 The Respondent acted for Y, for whom he had acted on a number of previous matters. Y wished to gift a London apartment to P2. The Respondent's instructions were execution only instructions; no advice was to be provided to either Y or P2. The flat (in an exclusive part of London) was owned by a corporate structure – Company A. Another corporate structure (Company B) was to be created of which P2 would be the ultimate beneficial owner. The shares in Company A would then be gifted to Company B. The Respondent drafted a Deed of Gift dated 10 March 2014 to effect

the transfer. On that same date he sent all documents, including the original share certificates for Company B to Y.

17.2 Regulation 8 of the Money Laundering Regulations 2007 set out how a relevant person must conduct ongoing monitoring of a business relationship. This included scrutiny of transactions undertaken throughout the course of the relationship (Regulation 8(2)(a)) and keeping documents, data or information obtained up to date (Regulation 8(2)(b)).

17.3 It was submitted that the Y Gift presented specific warning signs/risk factors:

- The property in question was a high-value gift;
- The property was transferred between foreign-owned entities in an off-shore jurisdiction;
- Documentation concerning incorporation of Company B, including the original share certificate, was given to Y rather than to P2 directly.

17.4 During his interview, the Respondent explained that Y was a high-net worth individual, an accomplished property developer with a circle of reputable advisors and contacts. Prior to acting for Y, the Respondent had undertaken research; there was nothing in the public domain linking Y to anything political.

17.5 As to the reason for the Y Gift, in the SAR of 11 May 2016, it was explained that the P2 had gifted an apartment to Y for Y's birthday. Culturally, it was the convention for Y to reciprocate by making a similar gift to P2.

17.6 It was submitted that the Respondent had placed too much weight on his existing business relationship with Y, and on his perception of Y as a high-net worth individual, without properly addressing the emerging risks. Accordingly, he failed to comply with either the Firm's AML polices or the Regulations, and consequently he failed to achieve Outcome 7.5 and breached Principle 7. Further, his actions amounted to a failure to behave in a way that maintained the trust the public placed in him and/or the provision of legal services, in breach of Principle 6.

The Respondent's Case

17.7 The Respondent admitted that, between November 2013 and March 2014, he failed to conduct ongoing monitoring of his business relationship with client Y in relation to the Y Gift, notwithstanding risk factors such as (a) the high value of the proposed gift (b) the use of offshore companies and the original documentation being given to client Y. Accordingly, the Respondent admitted that he breached Regulation 8 of the Regulations. In consequence, the Respondent admitted that he had failed to achieve Outcome 7.5 of the Code and had breached Principles 6 and 7.

The Tribunal's Findings

17.8 The Tribunal found allegation 1.5 proved beyond reasonable doubt on the facts and the evidence. The Tribunal considered that the Respondent's admission was properly made.

18. **Allegation 1.6 - Between around November 2013 and March 2014, acted in the Y Gift matter in circumstances which disclosed a significant risk that money laundering was taking place; and in doing so breached Principles 2 and 6 of the Principles.**

18.1 The warning signs detailed in paragraph 17.3 above disclosed an objective significant risk that money laundering was taking place. In particular, the gift of high-value London property, the use of off-shore companies, and original documentation being given to Y presented a significant risk. The Respondent had not conducted ongoing monitoring in respect of his business relationship with Y. Continuing to act in those circumstances gave rise to an objective significant risk of breaching the Regulations, being a conduit for money laundering, and/or undermining public confidence in the profession.

18.2 The Respondent breached Principle 2 by failing to act with integrity. A solicitor acting with moral soundness, rectitude and steady adherence to an ethical code would have applied anti-money laundering principles diligently and would have determined not to act in the particular circumstances of the Y Gift matter, where there was, objectively, a significant risk that money laundering was taking place. The Respondent's actions also failed to maintain the trust the public placed in the profession, in breach of Principle 6.

The Respondent's Case

18.3 The Respondent admitted that, between November 2013 and March 2014, he acted in relation to the Y Gift in circumstances where there were grounds to suspect that money laundering may be taking place. Such grounds to suspect include (considered cumulatively) the matters listed in paragraph 17.3. The Respondent admitted that he should have made further inquiries before accepting or continuing with instructions. Accordingly, the Respondent admitted that his conduct, in failing to pay proper regard to his obligations under the Money Laundering Regulations, fell materially below the standards expected of a senior solicitor in his position, and amounted to breaches of Principles 2 and 6.

The Tribunal's Findings

18.4 The Tribunal found allegation 1.6 proved beyond reasonable doubt on the facts and the evidence. The Tribunal considered that the Respondent's admission was properly made.

Previous Disciplinary Matters

19. No previous matters before the Tribunal.

Mitigation

20. Mr Bacon QC submitted that at the material time, the Respondent was a partner in the real estate department of the Firm. His office was surrounded by multi-million-pound properties and he dealt with some of the most expensive property in London. He accepted, with hindsight that he should have identified the X Clients as PEPs.

21. He had undertaken work for Y for many years, having commenced working for him in 2005. He had acted in a series of property related transactions for Y who was a property tycoon. From the Respondent's perspective, there was nothing unusual about the transaction. The high value and the use of off-shore companies were common place. Further, Y was represented by a leading City law firm. The property was marketed by an extremely reputable company. There was nothing about the transaction that was unusual so as to cause the Respondent to believe that the E Transaction was anything other than genuine. There was also nothing uncommon about the use of a corporate structure for the purchase and sale of property in Knightsbridge; on the contrary, it was prolific.

22. He accepted that he did not identify the X Clients as PEPs. There was nothing about the name of the X Clients that should have alerted him to that. As a consequence of the release of the Panama papers, the status of the X Clients became clear.

23. Mr Bacon QC referred the Tribunal to the documents relied on by the Applicant. The names of the X Clients were detailed as required. There had been no attempt by the Respondent to hide who they were. The Respondent undertook standard CDD checks. He accepted that he ought to have undertaken enhanced CDD checks. There was immediately obvious at the time to identify the X Clients as PEPs. It was accepted that this might have been disclosed by an internet search.

24. As to the accounts that the Respondent accepted, these had been audited by Ernst & Young, another highly reputable company. The accounts specifically referred to the X Clients with the correct spelling of their names. This was not a case where the Respondent was acting for clients that he knew, or ought to have known, did not exist.

25. It was not uncommon, in property transactions of this nature, for the clients not to be seen at the outset. It was the Respondent's case that he would have ensured he met with the clients before the matter was completed.

26. As regards the Y Gift, the Respondent had admitted his failings. There was nothing unusual in the nature of the transaction; a transfer using corporate structures was the obvious way to effect the transaction.

27. Mr Bacon QC referred the Tribunal to the voluntary report of the Respondent in relation to both the E Transaction and the Y Gift. The Respondent, it was submitted, had provided overwhelming cooperation throughout the investigation. Following the initial SAR, the Firm had examined all transactions; the matters before the Tribunal were the only matters that had any issues of concern. The Respondent's conduct had not resulted in any loss to any client, nor was there any complaint from any client.

28. As to sanction, it was submitted that the Respondent had failed in one material respect, namely his failure to identify the X Clients as PEPs. He had been completely open about the transaction. There had been no breach of trust and he had not misled the regulator. The matters had continued over a short period of time, and when it became known that there were potential issues, the Respondent had voluntarily notified the regulator of the same. The Respondent regretted this episode in his otherwise unblemished career.

Sanction

29. The Tribunal had regard to the Guidance Note on Sanctions (5th Edition). The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction, it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances.

30. The parties recognised that sanction was a matter for the Tribunal. For its part, the Applicant was of the view that the appropriate sanction, which would send a proportionate reminder to the profession of the importance of strict compliance with the Money Laundering regime, was a fine at the top end of level 4 or within level 5. Mr Bacon QC submitted that a fine within level 4 of the Tribunal's indicative fine bands was the appropriate sanction.

31. The Tribunal found that the Respondent was wholly culpable for his misconduct. Given the nature of his work, it was even more incumbent on the Respondent to ensure that he complied with the rules and regulatory regime to minimise the risk of money laundering. It was a matter, given the nature of his work, to which he ought to have paid very close attention. Further, he was the MLRO at the Firm. This should have heightened his sense of his obligations, and his awareness of the risks. He was directly in control of the circumstances and was an experienced senior solicitor. Given the nature of the misconduct and the Respondent's admitted failures, the Tribunal assessed his culpability as high.

32. The Tribunal did not accept the submission that no harm had been caused. There had been harm caused to the reputation of the profession, as the Respondent had admitted. There was significant harm to the reputation of the profession when the Respondent's failings had led to a risk of large amounts of money being laundered. The Respondent's misconduct was aggravated as he ought to have known that he was in material breach of his obligation to protect the public and the reputation of the profession.

33. His misconduct was mitigated by his voluntary report to the regulator. Further, he had displayed genuine insight into his misconduct and had cooperated in full with the investigation. His misconduct was of relatively brief duration, and no client had suffered loss as a result.

34. The Tribunal considered that the misconduct was too serious for no order or a reprimand to be imposed. However, whilst it was serious, it was not so serious that the protection of the public and the protection of the reputation of the profession required him to be removed from practice. Further, the Tribunal did not find that the

protection of the public and the reputation of the profession required the Respondent's practice to be restricted by the imposition of conditions.

35. The Tribunal determined that a fine was the correct sanction. The Tribunal found the Respondent's failings to be very serious and his culpability high. The Tribunal considered that his misconduct fell within the upper end of its Indicative Fine Band Level 4. A fine of £45,000 was the appropriate and proportionate sanction in all the circumstances.

Costs

36. The parties agreed costs in the sum of £40,000. The Tribunal considered that the agreed costs were reasonable and proportionate taking into account the complexity and nature of the case. Accordingly, the Tribunal ordered that the Respondent pay the costs of and incidental to the application in the agreed sum.

Statement of Full Order

37. The Tribunal Ordered that the Respondent, KHALID MOHAMMED SHARIF, solicitor, do pay a fine of £45,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the agreed sum of £40,000.00.

Dated this 4th day of January 2019
On behalf of the Tribunal

L. N. Gilford
Chairman