THE HIGH COURT

[2020] IEHC 581

[2020 No. 40 S.A.]

IN THE MATTER OF KATHLEEN DOOCEY, A SOLICITOR, PRACTISING AS KM DOOCEY SOLICITORS, AMERICAN STREET, BELMULLET, COUNTY MAYO AND IN THE MATTER OF THE SOLICITORS ACTS 1954 – 2015

BETWEEN

LAW SOCIETY OF IRELEND

APPLICANT

AND

KATHLEEN DOOCEY

RESPONDENT

JUDGMENT of Ms. Justice Irvine, President of the High Court, delivered on the 2nd day of November, 2020

1. This judgment concerns an application brought by the Law Society of Ireland ("the Society") to have the respondent's name struck from the Roll of Solicitors, to have her pay a sum of €10,000 to the compensation fund, to require that she pay an amount of €1,500 as a contribution to the whole of the costs of the Society and that she pay the costs of the within application, such costs to be taxed in default of agreement. The application is brought by the Society pursuant to s. 7(3)(c) of the Solicitors (Amendment) Act 1960 (as substituted by s. 17 of the Solicitors (Amendment) Act 1994 and as amended by s. 9 of the Solicitors (Amendment) Act 2002) and the jurisdiction of the High Court is as provided for in s. 8 of the said Act.

Background

2. The background to the application is set forth in the affidavit sworn on 3rd July 2020 by Ms. Mary Fenelon, a solicitor employed in the Regulatory Legal Services of the applicant, and who is responsible for prosecuting complaints against solicitors.

3. The respondent was admitted and enrolled as a solicitor on 17th February, 2014. She carries on practice as a solicitor under the style and title of K.M. Doocey Solicitors in Belmullet, Co. Mayo.

4. On 23rd July, 2019, the Solicitors Disciplinary Tribunal heard a complaint against the respondent. This arose from an inspection of her accounts which had been initiated by the Society. At that hearing, the respondent made admissions in relation to numerous allegations of misconduct and also admitted that they constituted misconduct. The findings of misconduct are set out at para. 4 of Ms. Fenelon's affidavit wherein she details 24 findings of financial irregularities in breach of obligations under the Solicitors Acts and under the Solicitors Accounts Regulations. These included allowing a deficient in excess of €169,000 to arise on her client account as of 31st December, 2017, in addition to carrying out a significant number of irregular transactions whereby she moved funds between client and business accounts and between client ledgers to conceal shortfalls as they arose. This process is referred to as "teeming and lading" or in more common parlance "borrowing from Peter to pay Paul" and constitutes a serious departure from the Solicitors Accounts Regulations 2014 (particularly Part II) and the standards expected of solicitors in respect of a management and custody of client funds.

5. At paras. 7 and 8 of her affidavit, Ms. Fenlon refers to two previous disciplinary matters concerning the respondent which also related to her breach of the Solicitors Accounts Regulations.

6. The Disciplinary Tribunal, having heard submissions from both parties on 23rd July, 2019, adjourned the hearing until 9th January, 2020, so as to allow the Society's investing accountant, Mr. Michael Costello, review the respondent's practice. Having done so, Mr. Costello prepared a report dated 18th November, 2019, which was later placed before the Disciplinary Tribunal when it reconvened on 9th January, 2020.

7. On 9th January, 2020, the Tribunal heard evidence as to the checks and balances then in place in the respondent's practice to ensure her compliance with the Solicitors Accounts Regulations. The Tribunal heard from Mr. Pat McCosker, an accountant involved in the supervision of the respondent's practice and also from Mr. John O'Dwyer, a solicitor assisting the respondent in a supervisory capacity. The system put in place by the respondent and these two professionals, who were acting (and continue to act) in a supervisory capacity, involves a number of elements which the respondent contends protects the public. Firstly, client receipts are entered by the respondent's office when they are received and lodged to the Bank of Ireland, Belmullet. Any requisitions for client account cheques are sent by the respondent to Mr. McCosker, together with the latest client account statement. Mr. McCosker then remotely logs onto the respondent's bank accounts and ensures the receipts are accurately entered and reviews the details in the client ledger. Mr. McCosker, once so satisfied, then posts the cheque requisition and bill of costs, if applicable and prints off the ledger card after the items are posted to ensure that the client ledger is up to date. Finally, the cheque requisitions, together with a copy of the ledger card are then sent by Mr. McCosker to Mr. O'Dwyer to have the cheques issued, signed by him personally and then posted back to the respondent's office. The cumulative effect of this plan, the Court is told, is that the respondent has no control over the writing of cheques or access to client funds. The respondent contended that the supervision of her conduct by these two professionals is sufficient to rectify the financial mismanagement which had earlier occurred and would protect against any repetition of her prior conduct.

8. I would pause at this point to observe that despite the complexity of the aforementioned scheme, it is hardly as watertight as the respondent would have the Court accept. The very success of the scheme appears to depend on the honesty and integrity of the respondent in the first place (it is not inconceivable that cheques could be dealt with "outside" of this arrangement) and while it may be that cheques processed within the boundaries of this system might be subject to acceptable levels of scrutiny and control, a potential weakness in the system is that the respondent controls which cheques are entered into the system in the first place. That of course depends on the honesty of the respondent.

9. Having heard all of the evidence, the Tribunal decided that it would not recommend that the respondent be struck off but rather that her practising certificate would be issued

subject to conditions that it set out in its report. Those conditions proposed a requirement that (i) all cheques issued from the respondent's practice would be signed by a third party solicitor (ii) that no funds would be lodged directly to the solicitor's office account, (iii) that all transfers of funds would first be authorised by Mr. Pat McCosker or another person employed in a supervisory capacity and (iv) if either the supervising solicitor or accountant were to indicate their intention to cease their supervisory function, the applicant would be notified. The Tribunal also recommended that the respondent pay €10,000 to the compensation fund and €1,500 as a contribution to the whole costs of the applicant.

10. The following factors would appear to have persuaded the Tribunal to propose a sanction less than that of a strike off. First the fact that the respondent admitted the acts of misconduct alleged and the fact that they amounted to professional misconduct. Second, that the respondent had made good the deficit in her client account. Third, that her conduct had not resulted in any of her clients incurring financial loss with the result that there had been no call made on the Society's compensation fund. Finally, a cyber attack on the account of one particular client had caused a loss to her practice of the sum of €50,000.

11. Somewhat unusually, the applicant asks this Court not to follow the recommendation of the Disciplinary Tribunal. Instead, it strongly urges the Court to impose the harsher sanction and to strike the respondent from the Roll of Solicitors on the grounds that she is not a fit person to be included thereon. The applicant believes that the extent of the financial irregularities in the respondent's accounts, which show a clear pattern of teeming and lading and which had the effect of concealing a deficit in excess of €169,000, demonstrates a complete disregard by the respondent for her obligations under the Solicitors Acts and the Solicitors Accounts Regulations. The Society contends that the only sanction which would have the effect of protecting the public and maintaining public confidence in the solicitors' profession would be an order striking her name from the Roll, a sanction which it maintains would be both appropriate and proportionate on the particular facts of the case.

The Applicant's Submissions

12. In justifying its application for the imposition of a stronger sanction than that recommended by the Tribunal, the applicant relies upon the fact that the allegations of misconduct have been admitted by the respondent. And, in circumstances where the findings reveal elements of professional dishonesty, must be considered to be at the upper, if not the highest level of professional misconduct. The applicant relies upon the respondent's acts of concealment and deceit combined with her reckless disregard for her responsibilities as a solicitor in relation to clients' monies in support of its position. Furthermore, her conduct comes on the back of a prior disciplinary history in relation to non-compliance with the Solicitors Accounts Regulations.

13. In support of its application, the Society in particular relies upon the decision of the Supreme Court in *Re Burke* [2001] 4 I.R. 445, in which it was stated that if public confidence in the solicitors' profession is to be maintained, any abuse of that trust must

inevitably have serious consequences for the solicitor concerned. The Society points to the fact that the findings in this case are so serious that the respondent herself has proposed that she should only be able to practice in circumstances where she would not have any independent control over or access to either her clients' or her office's money. This, the Society maintains is at odds with the fundamental attributes of trustworthiness required of a solicitor. The Society relies upon the jurisprudence which emanates from decisions such as *Law Society of Ireland v. Enright* [2016] IEHC 151*, Law Society of Ireland v. Herlihy* [2017] IEHC 122, *Law Society of Ireland v. Coleman* [2020] IEHC 381 as well as *Law Society of Ireland v. Carroll* [2016] 1 I.R. 676, which make clear that only persons who have integrity, probity and trustworthiness can be admitted to the solicitors' profession. According to the applicant, by her conduct the respondent has demonstrated that she does not fall within this category and cannot be considered to have the necessary fundamental attributes of trustworthiness required of a solicitor.

14. The applicant also maintains that a strike off is necessary to mark the seriousness of the findings against the respondent, to maintain public trust and to protect the reputation of the profession. In so proposing, the applicant acknowledges that such an order would not necessarily exist in perpetuity and that the respondent would not be precluded at some stage in the future from seeking to apply to have her name restored to the Roll.

15. In making its submissions for a strike off, the applicant acknowledges that there are mitigating factors to be taken into account. Nonetheless, it maintains that these are insufficient to warrant the imposition of a sanction less than a strike off. Whilst there may have been a cyber fraud attack on a client account, the amount concerned was only €50,000 and provides an entirely inadequate explanation for how a deficit of €169,000 arose. Neither did it explain the extensive teeming and lading operation in which the respondent became involved. Furthermore, the misconduct did not take place at a time of any personal misfortune for the respondent, such as was the case in *Law Society of Ireland v. D'Alton* [2019] IEHC 177 when the solicitor engaged in misconduct during a period of ill health.

16. Of relevance also is the fact that as of the date of the hearing before this Court and regardless of all of the accountancy advice and support she has had in the more recent past, the respondent accepts that, although in practice since 2014, she has yet to make an income tax return and that all of her VAT returns for 2017 and 2018 and part of 2019 are in arrears. The fact that the respondent was either unable or chose not to regularise these matters in advance of a hearing as significant as that under consideration here is, to say the least, extremely worrying. The non-filing of these VAT returns may signify that VAT owing to the Revenue has been used for other purposes. At the very least is shows that the respondent has failed to meet her obligations to account to Revenue Services for monies received on their behalf.

The Respondent's Submissions

17. The respondent submits that the Court should not depart from the conditions recommended by the Tribunal. These were considered a proportionate sanction after

careful consideration and in circumstances where she had demonstrated insight and adopted a constructive approach to regularising her accounting practises.

18. The respondent submits that the conditions proposed by the Tribunal are a significant sanction insofar as the would place a significant limitation on her ability to practice. Furthermore, she argues that the restrictions recommended by the Tribunal were carefully designed to meet the major objectives of public protection and to ensure that financial mismanagement would not reoccur. And, the respondent seeks to rely upon the fact that these restrictions have been in place and operating successfully for some time.

19. At the heart of the submissions made by the respondent is her claim that she is not untrustworthy and that the issues which arose in her practice were as a result of what she describes as a chaotic and incompetent approach on her part towards the finances of her clients and her practice. She maintains that to portray her as dishonest is unfair and misplaced. The respondent claims that she provides a good service to her clients and that none of them were at a loss by reason of her mismanagement. And, the respondent asks the court to factor into its consideration her claim that there can be no concerns regarding the viability of her practice.

20. In mitigation, the respondent accepts that her actions fell short of the standards to be expected but she seeks to rely upon the fact that she had no training, she was inexperienced and the fact that she was unsupported as a solicitor practising in an isolated area. The court should take into account the fact that she has put in place practices which will safeguard clients' funds and the fact that she is willing to submit herself to any additional restrictions as the Court may consider are necessary to permit her continue to practice.

21. In conclusion, the respondent maintains that the conditions proposed by the Tribunal would be an appropriate and proportionate response to her misconduct and she complains that the applicant has failed to explain why those conditions would not adequately protect the public and serve to mark its disapproval of her conduct. To impose a strike off would be to ignore these and the other mitigating factors earlier mentioned.

Legal Principles

22. There is no dispute between the parties as to the role of the court on the present application or as to the principles to be applied. Under s. 8 of the Solicitors Act 1960 (as amended) the Court may, on receipt of a report prepared by the applicant containing recommendations on sanction, give any decision or make any order that it thinks fit as was noted by McKechnie J. in *Coleman* where at para. 61, he stated as follows:

> "As set out at paras. 51 and 53 above, the court, having considered the matter may give any decision or make any order it thinks fit, including of course exercising the powers contained in s. 8 of the 1960 Act. There is no question of being bound by an opinion expressed or by a recommendation made by the Tribunal. In addition, of course, the Law Society is expressly entitled to make submissions as to what its position is on the sanction front as is the respondent solicitor. As the case law

shows, the High Court has on several occasions departed from the recommendations made and/or have refused to endorse the reliefs sought, by the Society. Even where granting such relief however, it is clear that in all cases the ultimate arbiter is the court."

23. It is clear from the authorities that whilst the views of the Tribunal and indeed those of the Society carry considerable weight, the Court itself is obliged to embark upon an examination of the issues arising and after due consideration declare its own position. After all, what is at stake for the solicitor is, as McKechnie J. pointed out in *Law Society v. Coleman*, extremely high.

24. When it comes to considering the sanction to be imposed, the Court must have regard to all of the facts that gave rise to the findings of misconduct as it must weigh all of the factors offered in mitigation, assuming such factors exist. Cases such *D'Alton* provide an example of the type of circumstances that might be relied upon by way of mitigation. In that case, particular weight was attached to the fact that the respondent solicitor had a chronic health condition at the time the disciplinary offences occurred.

25. What is also abundantly clear from the authorities is that in cases of proven dishonesty, the sanction of dismissal will be a frontline consideration as was emphasised by McKechnie J. in *Law Society v. Carroll*. A similar approach was taken by Kelly P. in *Law Society of Ireland v. Herlihy* where he observed that where dishonesty is established on the part of a solicitor, then no matter how strong the mitigation is, a strike off will almost invariably follow. He emphasised the importance of taking such a strict approach because of the need to maintain trust in the solicitors' profession.

26. It is clear from the case law that a very strict view is to be taken of serious misconduct which might be described as dishonest behaviour. Simons J. in *Law Society of Ireland v. Coleman* [2020] IEHC 381, in dealing with conduct which he considered was dishonest rather than merely negligent or careless, pointed to the fact that difficult personal circumstances including serious health issues affecting close family members did not ameliorate the gravity of the respondent's misconduct. At best, such circumstances might provide context for the misconduct, but any such difficulties could not be relied upon to excuse dishonest behaviour of the type that had occurred in that case.

27. Further helpful guidance is to be found in the judgment of McKechnie J. in *Law Society v. Carroll* wherein he considered the characteristics expected of a person seeking to be admitted to the Roll of Solicitors, characteristics which are clearly central to the Court's consideration of the conduct of a solicitor that the Court is asked to remove from the said Roll. The following is what he stated at para. 65 and following of his judgment:

"65. The phrase 'fit and proper' combines two broad elements, fitness and properness. Both, whilst complimentary, are intended to convey different requirements and to cover different aspects of a person's overall suitability for the solicitors' profession.

66. In broad terms, 'fitness', which covers the necessary academic qualifications and practical experience, also relates to matters such as knowledge, skill, understanding, expertise, competence and the like, all of which impact on one's capacity to appropriately discharge the obligations which the practice of his profession imposes. The second aspect of the term 'being a proper person' is much more directly related to character and suitability. Critical in this respect are matters such as honesty, integrity and trustworthiness: a person of principled standards, of honest nature and of ethical disposition; a person who understands, appreciates and takes seriously his responsibilities to the public, to the administration of justice, to individual colleagues and to the profession as a whole.

67. It is neither possible nor desirable to try and outline the acts, omissions and conduct by which such a standard should be judged: these range on the vertical scale from the trivial, negligible and inconsequential to the grave, appalling and deplorable. On many occasions the Regulatory Body, and on review the court, will have little difficulty in appropriately positioning the conduct established. On other occasions, however, a fine line and narrow call may have to be made; when that difficulty occurs the decision will be a matter of degree. Whichever may be the situation, each case will be circumstance specific, and must be individually assessed at all levels of the adjudicative process.

68. In a judgment quoted by the President in the instant case, *Bolton v. Law Society* [1994] 2 All E.R. 486, Bingham M.R. analysed some aspects of the range of conduct which might call for regulatory intervention in respect of a solicitor. Every solicitor and all intending solicitors should take time to engage with it. Whilst some of what is stated is echoed in *Burke*, what emerge from the overall decision are the unforgiving consequences which would most likely follow from any proven misconduct, save that at the lowest level of the scale.

69. The learned Master of the Rolls identified proven dishonesty, whether attended by a criminal conviction or not, as the most serious such conduct. Where established, 'no matter how strong the mitigation' is, a strike off will almost invariably follow. Furthermore, even where the solicitor in question has, over the following several years, made every effort to rehabilitate himself, and has even done so honourably and in a position of trust and responsibility, a restoration to the Roll will be very rare indeed. He described why this approach, which may seem harsh, was necessary: it was to maintain the reputation of the solicitors' profession in general, and to sustain unreserved public confidence in its integrity."

28. The factors to be considered by the Court in deciding on the appropriateness of the penalty proposed by the Society or the Disciplinary Tribunal are set in the judgment of Kelly P. in *Law Society of Ireland v. D'Alton*. At para. 33 of his judgment, he described his approach to the question of the penalty to be imposed in the following manner:

"In approaching the question of penalty I have to have regard to:

(a) the protection of the public;
(b) the maintenance of the reputation of the solicitors' profession 'as one in which every member of whatever standing, may be trusted to the ends of the earth (per Bingham M.R.)';
(c) the punishment of the wrongdoer;
(d) the discouragement of other members of the profession who might be tempted to emulate the behaviour of the wrongdoer; and
(e) the concept of proportionality. The sanction must be proportionate and appropriate."

Decision

29. It is impossible, in my view, based upon the facts which are admitted, to avoid concluding that the respondent's misconduct in this case, concerning as it does a complete abuse of the trust and confidence which clients are entitled to expect of their solicitor, is other than extremely serious. It is undoubtedly, as maintained by the applicant, at the uppermost end of the scale of seriousness.

30. I reject as unsustainable, the respondent's submissions that I should consider the manner in which she moved funds between accounts and managed her practice as nothing more than chaotic, haphazard or incompetent. What was involved in this case was systematic, extensive and deliberate teeming and lading with a view to disguising a deficit of €169,152 in her client account as of 31st December, 2017.

31. It is clear from para. 4 of the affidavit of Mary Fenelon, which details the findings made by the Disciplinary Tribunal, that the respondent moved sums of money from one client account to replace a deficit which she had earlier created in another client account. And, the individual amounts so transferred, were clearly designed to disguise the fact that she had borrowed from the client account into which the said amounts would be transferred. Furthermore, in admitting to the misconduct alleged the respondent has accepted that she took funds belonging to at least thirteen of her clients and paid them into accounts of other clients to disguise the €169,152 deficit. This is hardly the type of conduct to be expected of someone who, as Bingham M.R. observed must be capable of being "trusted to the ends of the earth".

32. And, the respondent's misconduct did not stop at teeming and lading. She also used other strategies to conceal deficits in the books of account. At times, she did this by failing to record transactions in the books of account, or alternatively, misdescribed those transactions so as to conceal misappropriations or irregularities.

33. I do not accept the respondent's submission that she should not be portrayed as dishonest and that the Court should consider her as a solicitor who has served her clients well based upon the fact that none of them suffered financial loss by reason of her actions. When counsel for the respondent was asked as to what would have happened if all of the respondent's clients had sought to wind up their business with the respondent at the same time, counsel had to accept that the respondent would not have been in a position to pay to her clients the sums to which they were entitled. Her practice was at a

shortfall of €169,000. She was only able to practice as a solicitor by continually borrowing from Peter to pay Paul. There is no knowing how long the respondent would have continued with this practice had she not been caught and how large the deficit might have become, absent the involvement of the Society. And, whilst the respondent was a relatively inexperienced solicitor, her reliance on inexperience, lack of training and ignorance as causative of her conduct rings hollow considering that her professional training would have certainly included examinations and training on the principles of accounting and bookkeeping, as well as the provisions of the Solicitors Acts and Solicitors Accounts Regulations which are underpinned by the fundamental principles of client money safeguarding, allied to the fact that she must have been acutely aware of her obligations in terms of the Solicitors Accounts Regulations having regard to her two prior engagements with the Disciplinary Tribunal.

34. I have to say that I am also deeply concerned that the respondent, throughout this process but in particular in the High Court, has sought to minimise the significance of her actions by seeking to rely upon the fact that no client suffered financial loss as a result of her actions. While this may be factually correct, the respondent's approach is one which demonstrates a complete lack of understanding concerning her obligations to her client, her profession and the administration of justice. And this in itself is a persuasive factor in assessing her fitness to practice and bears heavily on my assessment.

35. The fact that the shortfall on the client account was later made good by loans obtained from the respondent's family does not mitigate against the underlying issue of the extensive and deliberate manipulation of accounts and the mismanagement of client funds. But for the financial support of her family, the respondent's clients ran the risk of being at a loss of €169,000. Clients must be able to trust that their funds will not be subject to misuse even if that misuse is later rectified. Client's funds must remain in their account and if sought must be available to be paid from that account and not some other account. To imply that the only type of harm which a client might suffer would be if their money, having been taken and used for some other purpose, was later not replaced, is to miss completely the nature of the duty which a solicitor has in terms of dealing honestly and ethically with their clients' funds. The precise nature of the harm is the non-compliance with the accounting regulations and it is not open to the respondent to seek to undermine that very serious harm by making the point that money moved around in deceitful circumstances was later replaced.

36. I also take the view that it is simply unstateable for the respondent to claim that she has served her clients well over the years and that the court cannot be in doubt as to the viability of her practice. Apart from the €50,000 which was lost due to an alleged cyber attack fraud on the account of one client, the respondent has made no effort to explain the factors responsible for the remaining deficit of over €110,000 on her client account. In circumstances where the initial deficit of €50,000 climbed to €169,000, the inescapable conclusion is that the respondent has personally gained at the expense of her clients, regardless of whether or not these monies were drawn by her as fees or used to discharge the expenses of her practice. That deficit, which has only been erased due to

borrowing from family members, is in the teeth of her contention that her practice is viable allied to which the Court cannot but be concerned to note that the respondent has never yet made an income tax return and is in arrears with all VAT payable for 2017, 2018 and part of 2019.

37. In circumstances where the respondent has not convinced me of any factor which might serve as persuasive in mitigation, such as serious ill health or any other satisfactory explanation which could explain her financial misconduct, I am of the view that a strike off is the only appropriate sanction which will serve to maintain the reputation of the profession and also mark the Court's disapproval of the respondent's conduct. After all, the respondent's conduct was of a type which seriously undermines the reputation of the profession, concerning as it did the dishonest handling of clients' monies.

38. In my view a strike off is also necessary to discourage others in the profession who might be tempted to emulate the respondent's conduct. It is all too inviting for a solicitor, if they should fall on hard times or find themselves in some type of financial bind, to think there would be nothing wrong or harmful in borrowing money from a client's account to "tide them over" so to speak for a short period. But that is conduct which is, for good reason, absolutely prohibited by the Solicitors Accounts Regulations. So often what happens is that the solicitor finds himself or herself unable to reimburse the account and when the funds that were borrowed are required by the client they resort to the teeming and lading exercise conducted by the respondent in the present proceedings. And, this conduct often continues until they are caught, at which stage their practice is riddled with debt and must be bailed out by the Solicitors Compensation Fund, thereby placing a burden on the profession as a whole.

39. I am also satisfied that the protection of the public warrants the imposition of the said sanction, particularly in light of the respondent's apparent lack of insight into the dishonest nature of each of the 24 transactions identified as professional misconduct and as to the potential implications of that conduct for her clients. Someone capable of such systematic dishonesty is clearly not someone who can be trusted to the "ends of the earth" by her clients. And, it is particularly difficult to see how a member of the public or a potential client of the respondent would have confidence and trust in her knowing of her admitted conduct to date and knowing that she is someone who, because of her prior conduct, was only permitted to practice as a solicitor provided she had no access to client funds and that every cheque she would write would be countersigned by another trustworthy professional.

40. Whilst the sanction of a strike off is a harsh one, it is the sanction deployed frequently in cases of dishonesty of this nature and the severity of the sanction cannot be mitigated, or even contextualised, in my view, by the respondent's relative inexperience or the fact that she was practicing unsupported in a rural area. It is a cardinal and basic rule that solicitors must never touch client's monies. Not only did the respondent repeatedly breach that rule but she dishonestly sought to cover her tracks until she was caught by her own professional body who unravelled the falsitude of her actions. And, it is to be

remembered that the respondent's conduct comes on the back of two prior disciplinary infringements both of which related to the management of her accounts and in the course of which she was warned about the importance of strict compliance with the Solicitors Accounts Regulations.

41. Finally, I find myself in disagreement with the respondent's submission that the Court is under an obligation to assist the respondent and to afford her as much leniency as possible. What the Court's obligation actually entails is to form an independent view after a full assessment of the facts as to what would be an appropriate and proportionate response to the misconduct. While leniency may be one of the factors which the Court may balance, especially in the presence of factors in mitigation such as those of the type described in *D'Alton*, it cannot be said that the Court's obligation is towards assisting the respondent with as much leniency as possible. The Court's obligation is to protect the public from solicitors whose practices place their funds at risk. The Court marks in the strongest terms its disapproval of the respondent's failure to adhere to the standards of honesty and integrity expected of the person who is fit and proper to remain on the Roll of Solicitors and considers that anything less than a strike off would not be appropriate.

42. For the aforementioned reasons I will made the orders sought.