THE HIGH COURT

[2024] IEHC 709

[Record No. H SA 2024 20]

IN THE MATTER OF CORMAC M. LOHAN, SOLICITOR, PRACTISING AS LOHAN AND CO. SOLICITORS, 7 GARDEN VALE, ATHLONE, CO. WESTMEATH

AND

IN THE MATTER OF THE SOLICITORS ACTS 1954 – 2015

SOLICITORS DISCIPLINARY TRIBUNAL RECORD NO 2018/DT101

BETWEEN

LAW OF SOCIETY OF IRELAND

APPLICANT

AND

CORMAC LOHAN, SOLICITOR

RESPONDENT

- AND -

[Record No. H SA 2024 19]

IN THE MATTER OF CORMAC M. LOHAN, SOLICITOR, PRACTISING AS LOHAN AND CO. SOLICITORS, 7 GARDEN VALE, ATHLONE, CO. WESTMEATH

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IN THE MATTER OF THE SOLICITOR'S ACTS 1954 – 2015

BETWEEN

CORMAC LOHAN, SOLICITOR

APPELANT

AND

LAW SOCIETY OF IRELAND

RESPONDENT

Judgment of Mr. Justice Micheál P. O'Higgins delivered on the 11th day of December 2024

Table of Contents

Introduction

1. These are two applications arising from disciplinary proceedings brought by the Law Society against the respondent solicitor, Cormac Lohan. The Solicitors Disciplinary Tribunal (SDT) heard the proceedings in October 2023 under SDT record no. 2018/DT101. Originally, there were 27 allegations, but following discussions between the parties, 18 charges were withdrawn, and the respondent solicitor made admissions with respect to nine charges. For ease of reference in this judgment, I will refer to the respondent solicitor as "the Solicitor".

2. The SDT proceeded to find the Solicitor guilty of professional misconduct in respect of the nine admitted allegations. Having considered submissions, the SDT decided that it would not impose sanctions pursuant to s. 7 (9) of the Solicitors (Amendment) Act 1960 (the "1960 Act") as substituted by s. 17 of the Solicitors (Amendment) Act 1994 and as amended by s. 9 of the Solicitors (Amendment) Act 2002. That section enables the tribunal to impose sanctions ranging from advice and management, up to a censure and payment of a monetary sum of up to €15,000 to the Society's Compensation Fund.

3. Instead, pursuant to s. 7 (3) (c) (iv) of the Solicitors Act 1960, the SDT directed that the Society bring the report of its findings before the High Court with its recommendation as to sanction. The High Court, pursuant to s. 8 of the 1960 Act as substituted and amended, has more extensive sanctioning powers than the SDT.

4. As required under the statutory scheme, the SDT prepared an order and report formally recording its findings and recommendations as to sanction. In its report of the 9th February 2024, the SDT recommended a restricted practising order and payment of €15,000, along with measured costs.

Application H SA 2024 20

5. In the first application, the Society has brought the order and report of the SDT before the High Court and seeks the imposition of the sanctions as recommended by the SDT,

together with such ancillary orders as may be necessary arising from the imposition of such sanctions, in the event the court adopts the tribunal's recommendation.

Application H SA 2024 19

6. In the second application, the Solicitor seeks orders setting aside the findings and recommendations of the SDT. The application indicates that all nine findings of the SDT are being challenged and appealed. The Law Society contends that the Solicitor's application is misconceived. It says that no appeal lies against the recommendation of the SDT as to sanction in circumstances where the tribunal did not make an order imposing sanction. It says the proper means for the Solicitor to oppose the sanction recommendation is by way of response to the Society's application H SA 2024 20, bringing the findings and report of the SDT before the High Court. The Society points out that the Solicitor admitted the allegations the subject of the findings and submits, therefore, that the process cannot be unwound.

7. The Law Society contends that the solicitor's application should accordingly be withdrawn or that in the alternative, to avoid unnecessary costs, the two sets of proceedings should be heard together and the parties' affidavits in H SA 2024 19 can be considered insofar as they deal with the question of sanction at the hearing of the Society's application under H SA 2024 20.

8. In these circumstances, it seems to me that the parties have reached a practical work-around on the running and sequencing of the two actions. It is agreed that the two applications can effectively be dealt with together. Both applications concern the question of whether the sanction recommended by the tribunal is excessive.

Recommendation of the SDT as to sanction

9. The SDT's recommendation to the court is threefold:

(i) That the Solicitor not be permitted to practice as a sole practitioner or in partnership, that he be permitted only to practice as an assistant solicitor in the

employment and under the direct control and supervision of another solicitor of at least ten years standing, to be approved in advance by the Society;

(ii) That he pay a sum of €15,000 to the Society's Compensation Fund; and

(iii) That he pay the measured costs of the Society in the sum of €15,000 in respect of the Society's tribunal costs.

10. The Solicitor's main point is that the principal sanction recommended by the tribunal will effectively lead to the closure of his practice and, he contends, may very well end his career. He says that any such far-reaching sanction would be disproportionate and not warranted by the facts of the case.

Findings of the SDT

11. The disciplinary proceedings against the Solicitor arose from an inspection of the Solicitor's practice in 2016 pursuant to the Solicitors Acts and the Solicitors Accounts Regulations. The inspection was carried out by two investigating accountants from the Regulation Department of the Law Society, Mary Devereux and Rory O'Neill.

12. The SDT found the Solicitor, by reason of his admissions, guilty of professional misconduct in that he:

(i) Caused or permitted a debit balance to client ledger file of S in the sum of €18,780.55 (allegation (b) before the tribunal);

(ii) Caused or allowed a debit balance to arise in the client ledger of F in the sum of €1,476.48 (allegation (c) before the tribunal);

(iii) Caused or allowed a debit balance to arise in the client ledger of RJBC in the sum of €78.00 (allegation (f) as amended before the tribunal);

(iv) Failed to provide vouching documentation in respect of a large transfer of €422,875.50 from client bank account to office bank account on 2nd July 2015 in respect of B Limited in the sum of €387,000 and T.S. in the sum of €35,000

totalling €422,000, up to date of the investigation report (allegation (g) before the tribunal);

(v) Breached Regulation 13 (1) of the Solicitors Accounts Regulations 2014 (SI 516 of 2014) as no proper books of accounts of relevant and supporting documentation were maintained by the respondent solicitor (allegation (h) before the tribunal);

(vi) Breached Regulation 7 (2) 2014 (SI 516 of 2014) of the Solicitors Accounts Regulations for the creation of debit balances (allegation (o) before the tribunal);

(vii) Breached Regulation 11 (5) of the Solicitors Accounts Regulations 2014 (SI 516 of 2014) for the creation of debit balances on office clients ledgers by transfer of outlays to office account which had not been disbursed (allegation (t) before the tribunal);

(viii) Breached Regulation 25 (1) of the Solicitors Accounts Regulations 2014 (SI 516 of 2014) for not maintaining minimum accounting records and having them available for six years (allegation (w) before the tribunal);

(ix) Breached Regulation 26 (1) of the Solicitors Accounts Regulations 2014 (SI 516 of 2014) for failing to file accountant's reports not within six months after the end of the accounting year (allegation (x) before the tribunal);

Report of the SDT contains no reasons

13. The report of the SDT meets the statutory requirements provided for under s. 7(3) (c) (iv) of the Solicitors Act 1960 as amended and substituted. It lists the charges before the tribunal that met the *prima facie* threshold of misconduct, includes the transcript of the oral hearing before the tribunal, a list of the materials before the tribunal, confirmation that no witnesses were called, notes that a number of charges were withdrawn by agreement, and

records the findings made by the tribunal on the admitted charges. The report goes on to note that the tribunal decided it would not be appropriate to impose the lesser sanctions within its remit but instead directed the Law Society to bring the report before the High Court to impose sanction. The report states the tribunal's view as to the appropriate sanction and confirms that in making that recommendation, the tribunal had regard to previous findings of misconduct made against the Solicitor, and the previous findings of misconduct are set out by reference to the relevant SDT record numbers.

14. It is appropriate to acknowledge that the report meets the relevant statutory requirements. However, it is also fair to say the report does not explicitly set out reasons for the tribunal's recommendation that a limited practising certificate/closure order should be imposed, as opposed to any lesser sanction sought by the Solicitor. I am aware from dealing with other cases in the regulatory/professional disciplinary list that the SDT does not always give reasons for its recommendation in these circumstances. As against that, I note that in other cases the SDT *has* given explicit reasons, for instance in *Law Society v. Christopher Walsh* [2023] IEHC 165 (Barniville P.). The giving of explicit reasons by the tribunal carries the obvious advantage that the High Court is given assistance in the task it has to perform under the statutory code, particularly in a marginal case. The decision of the Supreme Court in *Law Society v. Coleman* [2018] IESC 71 makes it clear that the High Court is the ultimate arbiter of the disciplinary proceedings, not the tribunal; the court should form its own independent view on the issue of sanction.

15. Nonetheless, it is clear from the authorities that the views of the tribunal should ordinarily carry some degree of weight. This is because it is staffed by experienced members of the solicitor's profession and other distinguished lay members, and is expected to have particular expertise in identifying and gauging where on the spectrum different acts of misconduct may lie. Due to the absence of explicit reasons in the SDT report, on the facts of

the present case the court does not have the benefit of the tribunal's views on the following discreet issues:

(i) Where on the scale of offending the Solicitor's breaches lie;

(ii) The identification of a "headline" sanction; or any specific identification of the mitigating factors; or the level of credit or "discount" due;

(iii) Any treatment of the Solicitor's submission that the present breaches overlapped with, or involved, the same subject matter as earlier breaches;

(iv) Any treatment of the submission that the underlying cause of the breaches have been addressed by the Solicitor introducing a new accounts system, and that this has addressed the likelihood of reoffending;

(v) The weight to be attached to previous breaches and earlier infractions. By contrast, in *Walsh* Barniville P. noted that the chairman of the SDT had directly focused on this issue, describing the prior history as "significant";

(vi) The reasons why the SDT chose the figure of €15,000 as the recommended payment to the Compensation Fund;

(vii) Any treatment of the submission that, despite inspections on an annual basis, no breaches or disciplinary charges have arisen since the present charges in 2016.

16. Arising from the absence of specific reasons for the recommended sanction in the report, I gave serious consideration to remitting the proceedings to the tribunal in accordance with the express power provided by s. 8 of the Solicitors (Amendment) Act 1960 as substituted by s. 18 of the Solicitors (Amendment) Act 1994. However, as the events under discussion date from 2016 approximately, I feel that enough time has passed and that, on balance, I should not avail of the remittal power in this instance. I propose instead to decide the question of sanction myself. However, in the absence of the SDT report setting out

specific reasons for the recommended sanction, I propose to do so without according any specific level of deference to the tribunal's recommendation, notwithstanding the experience and expertise of the members concerned. The court does have the benefit of the tribunal's view as to the appropriate sanction, albeit without specific reasons, and I propose to take that into account.

Summary of submissions on behalf of the Law Society

17. The Society submits that a restricted practising certificate as recommended by the SDT is the proportionate and appropriate sanction in the circumstances of this case. It contends that the findings demonstrate a serious and extensive failure by the Solicitor to maintain proper books of account and comply with the Solicitors Accounts Regulations. The extent of the failure was evidenced by the necessity of the Society's investigating accountant to reconstruct client ledger accounts and the near total failure by the Solicitor to maintain office account records with nearly all transactions on the office side of the accounts posted to just one ledger in his own name. The widespread use of this office ledger by the Solicitor occurred, moreover, in circumstances where an existing protection – requiring a co-signatory on the client account – did not apply to the office account. The use of the office ledger included substantial transfers of monies, unvouched at the time of the inspection, including the transfer of €387,000 of funds borrowed from a third-party company for the purchase of a house by the solicitor's wife.

18. Separately, the Law Society submits that when the client account ledgers were reconstructed by the investigating accountants, serious issues were revealed including a shortfall of client monies standing to the credit of clients of approximately €20,000.

19. The findings of the investigating accountants arose against a background of contentious findings in previous inspections. These are set out in the investigating accountant's report of Mary Devereux sworn on the 27th November 2018. The previous

findings include failures to maintain proper books of account and breaches of Solicitors Account Regulations at inspections in 2007, 2011/2012 and 2013 (including deficits being identified in client funds in 2011/2012 and 2013). Previous inspection findings resulted in the co-signing requirement being placed on the client account by the High Court in 2011 and this is a requirement which remains in place, contrary to what the Solicitor says.

20. The failures identified in the 2016 inspection were such that the Society, in proceedings separate to the SDT application, had to go to the High Court, pursuant to s. 18 of the Solicitors (Amendment) Act 2002, for an order to compel the Solicitor to comply with the Solicitors Accounts Regulations. This is set out in the affidavit of Mary Devereux sworn on the 27th November 2018 at paras. 27 to 28.

21. The Law Society emphasises that the findings form part of a substantial disciplinary record on the part of the Solicitor over five sets of disciplinary proceedings (not including the present proceedings). The Society urges that the findings in DT147/13 are of particular relevance in that they also relate to failures by the Solicitor to comply with the Solicitors Accounts Regulations, including debit balances. This is set out in the affidavit of Jonathan White sworn on the 20th March 2024. Fifteen findings of misconduct were made by the SDT in 2016 including the following:

> "(a) Caused or allowed a deficit to arise in the sum of €10,431 on the client account as at 31st December 2011."
>
> "(b) Allowed debit balances in breach of Regulation 7 (2)(a) of the Solicitors Accounts Regulations"
>
> "(d) Failed to maintain proper books of account in breach of Regulation 12 of the Solicitors Accounts Regulations to show a true financial position in relation to client monies received and disbursed to the clients account"

"(f) Breached Regulation 12 (6) of the Solicitors Accounts Regulations in not maintaining any office client ledgers."

22. On this basis, the Society submits that the misconduct on the part of the Solicitor is therefore not an isolated occurrence.

23. Separately, the Society contends that the recommended sanction is appropriate having regard to the absence of insight on the part of the Solicitor. The Solicitor's response to the inspection, and the Society's application to the SDT arising from the 2016 inspection, did not demonstrate good insight on the Solicitor's part. He purported to maintain that proper books of account had been kept and suggested that debit balances were offset by monies due on unrelated client matters. The Solicitor's assertion that proper books of account had been maintained was at odds not only with the investigations findings but even with submissions made by his own accountant in 2016.

24. In submissions in mitigation before the SDT the Solicitor pointed to the passage of time and later inspections having taken place without any further disciplinary application by the Society. It was also contended that "there is no lack of insight" and emphasis was placed on the admissions by the Solicitor. The Society contends that these submissions and the reliance placed on the admissions to the SDT to demonstrate insight are fundamentally undermined by the Solicitor's approach following the decision of the SDT, when his plea of leniency did not result in the outcome that he wanted.

25. The Solicitor at para. 17 of his affidavit sworn on the 19th March 2024 has asked the High Court, in the teeth of his own admissions to the SDT, to "reconsider" the allegations. He has proceeded at length to challenge each individual finding, contending that the findings are "not sustainable" or are "not accepted" by him (see paras. 17 – 25 of the Solicitor's affidavit of the 19th March 2024).

26. According to the Law Society, it is particularly notable that the Solicitor persists in seeking to dispute or down-play the significance of the findings of debit balances on the client account by submitting that shortfalls could be offset or made good from other monies. Likewise, the Solicitor persists in minimising the seriousness of the absence of vouching documentation (including vouching documentation to account for a transfer of €387,000 from the client account which was used to purchase his own family home) at the time of the inspection by the Society's accountants.

27. The Society submits that this approach clearly demonstrates a continuing lack of insight on the part of the Solicitor and further illustrates why the sanction recommended by the SDT is appropriate both as a deterrent to the Solicitor and also to make clear to other members of the profession the high standards required of solicitors in the handling of clients' monies.

28. The Society submits that the Solicitor's lack of insight also appears to extend to earlier disciplinary proceedings that have long since concluded. Much of his current application is an impermissible attempt to reopen or relitigate the SDT and High Court proceedings in respect of SDT matter DT147/13. The Law Society develops this point in its affidavits and submits that it is not accepted that the findings of misconduct made against the Solicitor previously were either retracted or withdrawn. They were the subject of an unappealed High Court order of the 2nd May 2017 imposing a censure and payment of €5,000 to the Compensation Fund and costs.

29. In all these circumstances, the Society invites the court to follow the recommendation of the SDT to impose the limited practice order that is being sought.

Summary of submissions on behalf of the Solicitor

30. The Solicitor contends that the sanctions as recommended by the SDT are excessive in the overall circumstances of the case. He contends that the admitted offences relate

primarily to technical breaches of the Solicitors Accounts Regulations 2014 and in which some supporting documentation was not available at the time of the inspection. He emphasises that the admitted breaches all occurred in 2015 and there was no loss of funds to any client. He says that he is not guilty of any "dishonesty" offence whatsoever. Moreover, no complaint was made by a client in respect of these accounts matters.

31. A point heavily pressed by the Solicitor is the fact that since 2016 there has been no adverse findings or charges brought against him. He says that this clean bill of health has occurred in circumstances where he has been audited every year since by the Law Society. In July 2016 the Law Society obtained an order, on consent, that he comply with the Solicitors Accounts Regulations, in default of which he could be suspended. He emphasises that since that occurred, he has complied with the Regulations, and very importantly, has introduced a new accounting system to his office. He contends that the introduction of the new accounting system has addressed the underlying difficulties which caused or contributed to the previous infractions.

32. He submits that in 2017 he was found guilty of a previous offence in relation to the Solicitors Accounts Regulations 2014 and a sanction was imposed upon him in 2017 by the High Court (Eager J.). He notes that the sanction imposed by the High Court was a censure and a fine. He makes two points arising out of that issue: Firstly, he says that the present breaches overlapped to a significant extent with the breaches the subject of Eager J.'s order with respect to Law Society complaint DT147/13. Secondly, he contends that the sanction as recommended by the SDT in the present case constitutes a marked "ramping up" from the sanction imposed by the High Court in 2017. He says that escalating the sanction from a censure and fine up to an order imposing a limited practice certificate, thereby closing his practice, is unjustified in the circumstances. Such a far-reaching order has not been properly justified by the Law Society.

33. At the meeting of the Regulation of Practice Committee on the 25th January 2017, the investigator's report highlights that the Solicitor's accounts had sufficient funds in the client account and that the books of account were now being maintained on the Harvest Law computerised accounts system. In that regard he relies upon the affidavit of Mr. David Irwin sworn on the 31st January 2017. The Solicitor says he has acknowledged the errors in his accounts but contends that since the second half of 2016 the entire accounts system has been changed and is now in compliance with the Regulations.

34. The Solicitor contends that the present matter did not proceed for almost four years before getting to the SDT and another three years before a final determination was made. Counsel invites the court to judge the Solicitor "*on his actions rather than his words*" in that in the present case it should be remembered that he pleaded guilty to a reduced number of charges before the SDT in October 2023. The allegations which he accepted all arise from the time of the inspection in 2016 and have now fortunately been addressed by the Solicitor. He submits that vouching documentation was produced, a new accounts system was introduced, and confirmations were received from clients that all transactions were in order.

35. Counsel emphasises that of the 27 allegations proffered by the Law Society before the SDT, 18 of the charges were withdrawn and, by agreement, the Solicitor pleaded guilty to the 9 charges that are outlined in the tribunal's report. Counsel submits that the Solicitor pleaded guilty on the earliest possible date to the "revised" charges. In the circumstances, this should be regarded as "an early plea" for the purposes of sanctioning.

36. Counsel emphasises that the breaches that finally led to the SDT making findings have not been repeated since 2016. In these circumstances, an order that has the effect of closing the Solicitor's practice is wholly disproportionate. Counsel submits that the absence of charges over the last eight years suggest strongly that a closure order is not necessary in order to achieve the Law Society's regulatory objectives, namely the protection of the public,

the maintenance of the reputation of the solicitor's profession and the punishment of the Solicitor's conduct.

37. The Solicitor has set out on affidavit that, in the circumstances of his situation, the proposed sanction is effectively a sanction that will lead to the ceasing of his practice and may very well end his career.

38. Counsel also takes issue with the fines recommended by the SDT. He says the fine to pay €15,000 to the Compensation Fund is at the limit of a permissible fine. A fine of that order implies that the Solicitor's actions led to a claim in the Compensation Fund, which they did not.

39. In addition, the Solicitor contends that the sum of measured legal fees proposed is excessive and does not take into account the fact that the Solicitor essentially accepted the revised nine allegations as soon as they were put to him. Therefore, the legal fees incurred prior to the 4th October 2023 could have been avoided, had the revised offer been made sooner. In all the circumstances he submits that the €15,000 recommended payment with respect to costs before the SDT is excessive and unexplained. He submits that the fine and its size implies that he was guilty of dishonesty, which he contends is simply not the case. He notes that in the recent case of *Walsh* the fine was only €2,000 and the fees were marked at €7,551.50.

40. Counsel submits that the tribunal did not properly consider the time lapse since the breaches relied upon and the rectification work undertaken by the Solicitor in order to ensure compliance with accounts regulations.

41. Drawing on caselaw such as *Hermann v. Medical Council* [2010] IEHC 414, counsel urges that the recommendation of the SDT failed to take into account, or attach sufficient weight to, the mitigation factors in the Solicitor's favour.

42. Turning then to the all-important question of insight, counsel urges that the Solicitor has shown complete insight into the issues and errors that arose due to the manner in which his accounts were kept in 2016. He says that proof of this is provided by three key matters:

- He pleaded guilty to the allegations.
- He accepted the revised charges in October 2023, the first day that the revised charges were suggested.
- Since 2016 when he overhauled his accounts system, no breaches have been found.

43. At para. 46 of the Solicitor's written submissions the following is stated:

"In Mr Lohan's recent affidavits he has delved into the detail of some of the admitted non compliance matters and has provided significant detail in relation to them. Mr Lohan has at no point attempted to appeal or revoke his admissions made in October 2023."

I will come back to the correctness of that contention later in this judgment.

44. Counsel acknowledges that the statutory scheme requires both the SDT and the High Court to take into account previous findings. Insofar as the Law Society places significant weight on the previous findings under DT147/13, counsel urges that that particular complaint only finalised in late 2017 when the Solicitor was deemed in compliance with the Accounts Regulations and he withdrew his appeal in the High Court on terms. He was censured and fined €5,000. Counsel submits that it was not acknowledged by the SDT that the two incidents of accounts non-compliance were decided in and around the same time. He emphasises that since the Solicitor was sanctioned for the breaches comprised in DT147/13, there has been no further breach of the account regulations. That suggests that the penalty imposed on the Solicitor was a sufficient deterrent, and punishment, for him in the discreet circumstances of these overlapping matters.

45. In all these circumstances, counsel submits that the Solicitor's acceptance of the breaches, the absence of any complaint from a member of the public, the demonstrated steps taken by the respondent to address all matters, and the clean bill of health over the eight year period that followed, together build a situation where it would not be just or in the public interest to close down the Solicitor's practice.

Analysis of the principal order sought

46. This is a difficult case in which to measure the appropriate sanction. There are several competing factors on both sides of the argument. The main issue between the parties concerns the proportionality of the recommendation to impose a limited practising order. On any view, that is a significant and quite far-reaching order. It involves the Solicitor concerned having to close his practice, hand over files and discontinue practice as a sole practitioner. As against that, it is well short of an order of erasure, removing the Solicitor from the Roll of Solicitors. It permits the Solicitor to continue in practice (and earn a living) as an employed solicitor, assuming he/she can obtain such employment. In the hierarchy of sanctions, a limited practice order undoubtedly falls well short of an order of erasure. Nonetheless, it constitutes a very serious sanction which needs to be objectively justified.

Main aggravating features

47. It seems to me the principal factors tending in favour of the SDT recommendation are the following:

48. First, the admitted findings demonstrate a serious and extensive failure by the Solicitor to maintain proper books of account and comply with the Solicitors Accounts Regulations. The Law Society's investigative accountants had to reconstruct client ledger accounts. There was a near total failure to maintain office account records.

49. Second, it was very concerning that nearly all transactions on the office side of the accounts were posted to just one ledger in the Solicitor's own name. This had the effect (if

not the intention) that an existing protection of requiring a co-signatory on the client account was nullified. There does not appear to have been any finding made that this was a deliberate circumventing of the co-signatory requirement, but it was a concerning feature, nonetheless.

50. Third, when the client account ledgers were reconstructed, serious issues were revealed including a debit balance of client monies on individual client accounts of approximately €20,000.00. Four important points should be noted about this:

(a) Despite what he now says, the Solicitor admitted the charges relevant to this, being charges 29(b), 29(c) and 29(f);

(b) His accountant also accepted these charges;

(c) A finding of a debit balance on a client ledger is a serious matter due to the importance of the principle of clients' money being available to clients instantaneously through strict compliance with rules regarding dealings with client monies;

(d) The Law Society accepts there was ultimately no shortfall, and no client was left out of pocket.

51. Fourth, the Solicitor had several previous findings of misconduct against his name. All told there were five sets of previous disciplinary proceedings. This was a significant aggravating factor. Under the statutory code, the court is obliged to take the previous findings into account. Some previous findings involved similar failures to maintain proper books of account and breaches of Solicitors Accounts Regulations at inspections in 2007, 2011/2012 and 2013.

52. Fifth, it seems to me that the Solicitor's initial response to the inspection and charges was defensive, ill-judged and strongly suggestive of a lack of insight and contrition. I will come back to this issue because, as we will see, this factor unfortunately intensified in the period *after* the SDT hearing in October 2023.

Mitigating/ ameliorating factors

53. Turning to the ameliorating factors, it seems to me the main points tending in favour of a more lenient sanction are the following:

54. First, of the 27 initial charges, 18 were withdrawn. The withdrawn charges included the headline charge of an apparent deficit in client funds of €605,514 as of 29th February 2016. In my view, the fact that this headline charge was dropped is important. It fundamentally altered the nature and extent of the prosecution case against the Solicitor.

55. Second, the breaches with which we are concerned all occurred in 2016. In the eight or so years since then, no further charges or breaches have occurred. This is the case despite the Solicitor being the subject of audits on an annual basis. This fact is relevant to the core regulatory concerns as to whether the Solicitor represents a danger to members of the public going forward and the extent of the risk that he will reoffend.

56. Third, there was a degree of overlap between these breaches and the breaches the subject matter of DT147/13 in respect of which Eager J. had imposed a censure and fine.

57. Fourth, the sanction now sought by the Law Society could be said to constitute a marked advance or "ramping up" of the sanctions previously imposed. There is a limit to this point because a) it pre-supposes that the earlier, more lenient sanctions were the only appropriate sanctions, and b) if earlier sanctions were not sufficient to discourage the solicitor from offending again, that ordinarily suggests a higher sanction may be necessary.

58. Fifth, the underlying cause of the offending appears to have been addressed. The Solicitor introduced a new computerised accounting system at some point in 2016. Since then, there have been no further charges.

59. Sixth, the "crystal ball" point: while normally a court can only make an informed prediction as to what might happen into the future in terms of a risk of a solicitor reoffending, unusually in the present case the court can assess the likelihood of reoffending against the

more certain backdrop that no disciplinary charges have occurred in the last eight years. On the facts here, therefore, there is less need of a crystal ball to predict the risk of future offending.

60. Seventh, counsel for the Law Society suggests the offending lies somewhere in the mid-range, before one adds in the mitigating and aggravating factors. Counsel for the Solicitor suggests the correct starting point is lower and suggests the offending falls at the lower end of the spectrum. I will come back to this issue later in my judgment, but for the moment it is proper to note that, even on the Society's view, the offending is not at the top end of the spectrum.

61. Eight, a proper calibration of the extent of the offending must take into account that firstly, the charges did not involve any client making a complaint against the Solicitor and secondly, flowing from the first point, there were no payments out by the Compensation Fund. While these points are obviously not dispositive of the case, they are relevant factors in the mix.

62. Ninth, the Solicitor's decision to plead to the nine charges before the SDT, and his acceptance that the breaches attained the required level of seriousness to amount to misconduct (see pg. 16/17 of the transcript of the hearing before the SDT) indicates that – at least at that point in time - the Solicitor had *some* level of insight into the circumstances that led to the offending, and the entitlement of the Law Society to bring disciplinary charges. It was reasonable for the Solicitor's counsel to submit this should be viewed, at that point, as "an early plea" in view of the agreement reached between the parties on the much-reduced charges.

Developments since the hearing before the SDT

63. It is clear from the affidavits before the court that since the matter was before the SDT, the Solicitor has changed his position quite radically and has effectively sought to

challenge each individual finding that he had pleaded guilty to before the tribunal. In an affidavit sworn as recently as the 19th March 2024, the Solicitor invites the Court to reconsider the allegations, contending that the findings made by the SDT are either not sustainable or are not accepted by him. He sets out this change of position at some length at paras. 17 – 25 of his affidavit. In his originating notice of motion dated 19th March 2024, the Solicitor seeks "*orders setting aside the findings/ recommendations … or part thereof of the Solicitors Disciplinary Tribunal dated 4th October 2023 …"*

64. In my view, having carefully reviewed the transcripts, the Solicitor's application seeking to unwind the findings made by the SDT is entirely misconceived and should not have been brought. Moreover, the contents and tone of the Solicitor's more recent affidavits are misjudged and unfortunate at a number of levels. Taking the affidavits at face value, the Solicitor now seeks to dispute or downplay the significance of the findings of debit balances on the client account and also seeks to minimise the seriousness of the absence of vouching documentation. I accept the Law Society's point that the Solicitor's proceedings and affidavits place a significant question mark over the true extent of the Solicitor's *insigh*t into the circumstances leading to the breaches of the Regulations.

65. The Solicitor says in his affidavits that it is not accepted by him that proper books of account were not kept. He contends that the admissions made by him before the SDT were made only on the basis that the Law Society would not seek any significant penalty as the allegations were "minor". He contends that there was agreement reached with the Law Society about these issues and that this agreement was breached when the Society sought the order that it sought.

66. It is evident from the backward and forwards of recent affidavits that there is a significant level of tension between the parties in this case. It is not necessary or appropriate for the court to comment upon, still less to determine some of the more contentious issues

raised. Unfortunately, relations appear to have broken down and the entire matter has become highly charged.

67. However, on any reading of the Solicitor's affidavits, he has committed to a position whereby he does not accept the findings of misconduct made by the SDT to which, with the benefit of legal advice, he pleaded guilty. He does not regard the findings as to debit balances on the client accounts as being significant. He characterises these as being no more than "technical" breaches. Nor does he view as significant the absence of vouching documentation on the file at the time of the inspection, including vouching documentation relating to a transfer of €387,000 from the client account, which was used to purchase his own family home. Surprisingly, he does not accept that proper books of account were not kept. In an overall sense, the Solicitor now appears to dispute the seriousness of the admitted breaches and does not, it seems, accept that they amounted to misconduct.

68. In my view, since the Solicitor has committed to these views on affidavit, the court has little option but to proceed on the basis that that represents his true position and outlook on the charges. To my mind, the position as advanced by the Solicitor on affidavit undermines to a significant degree the plea in mitigation that was made on his behalf before the SDT, and by counsel before this Court. The Solicitor's proceedings and affidavits demonstrate that he has limited insight into the circumstances that led to earlier findings of misconduct and more particularly, the circumstances that led to his admitting breaches on the present charges.

69. Moreover, it is plainly unacceptable that a Solicitor would plead guilty to disciplinary charges, thereby securing by agreement the withdrawal of more serious charges, and then seek to resile from those admissions because the outcome of the sanctioning process is not to his liking. Were such an approach to be tolerated, this could lead to proceedings before the Solicitors Disciplinary Tribunal becoming chaotic and unworkable. Where a litigant indicates

clearly before a disciplinary tribunal that he is pleading guilty to charges, the tribunal must be able to proceed on the basis that the plea will be honoured and not resiled from. In my view, the whole decision to change course, and launch these misguided proceedings, does not speak well for the judgment of the Solicitor.

70. Mr. Kennedy BL for the Solicitor acknowledges quite properly that aspects of the Solicitor's affidavits were ill-judged, and he urges the court to "*judge the respondent on his actions not his words*". In that regard, counsel submits that the court should view the breaches under discussion against the backdrop that the Solicitor had firstly admitted the facts underlying the revised charges, and secondly had accepted that they amounted to misconduct. Moreover, counsel submits that, notwithstanding the adversarial and somewhat belligerent tone of the more recent affidavits, the level of insight demonstrated by the Solicitor remains evident from the practical steps he had taken to modernise the account system in his office and resolve the underlying source of the problem.

71. My main reason for reserving judgment in this case was to enable me to give full consideration to counsel's submission in this regard, and also so that I could re-read the affidavits and the transcript before the SDT.

72. Having pondered the issues further, it seems to me that counsel was seeking to do his best for his client in making that submission, but that in truth, the court cannot ignore the reality that the Solicitor decided to launch these misguided proceedings and commit to the altered position set out in the sworn affidavits. The Solicitor's attempt to unwind the findings made by the SDT materially impacts the credit that was otherwise due to him for acknowledging his guilt of the reduced charges before the SDT. It seems to me the main issue I have to decide in this application is the question of what impact all of this should have on the overall sanctioning calculation.

73. In that regard, I think it would be appropriate to exercise an element of caution and not *over-react* to the Solicitor's misconceived proceedings and wrongful attempts to resile from the admissions, however misguided those steps were. The better course is to view the overall breaches in context, including the new information concerning the much-reduced mitigation, and the impaired insight and lack of contrition on the part of the Solicitor. It seems to me that in approaching the question of sanction, the court's first task is not so much to identify the impact of the aggravating and mitigating factors, but rather to firstly establish the gravity of the present breaches and decide where in the overall spectrum of offending the breaches fall. In my view, the acceptance by the Law Society that the offending lies no higher than the mid-range is important. Counsel accepts, quite properly, that an order of strike-off was never actually in play here. This was not a case involving manifest dishonesty or misappropriation, systematic "teeming and lading" to conceal deficits, or deliberate falsification of accounts, as occurred for instance in *Doocey v. Law Society* [2022] IECA 2. However, at the same time, I do not accept the Solicitor's submission that these were merely "technical" breaches or that they lay at the lowest end of the overall spectrum. In my view, the breaches were serious and sustained and were made worse by the Solicitor's previous disciplinary record. All told, I accept the submission of counsel for the Law Society that the offences lay somewhere in the mid-range.

74. Turning then to the key factors before the SDT, I think I should attach a high level of weight to regulatory considerations such as the "clean bill of health" since 2016, the fact that a number of more serious charges were initially proffered but ultimately withdrawn, the absence of any shortfall in client funds, the absence of any client complaint, the belated but eventually effective steps to introduce the new accounting system, and the fact that the cause of the underlying difficulties had been long since addressed by the time the case came before the SDT in October 2023. Taking these key features into account and not forgetting the guilty

plea and submissions made before the SDT, I take the view that, at that point in time, the decision of the Law Society to press for the closure of the Solicitor's practice was disproportionate and something of an over-reach.

75. However, that is not the end of the matter - since the case was before the SDT in October 2023, the "bank of evidence" against the Solicitor has *enlarged*, in that the court now has the additional affidavits of the Solicitor in which he effectively seeks to unwind the admissions made before the tribunal, and wrongly minimises the seriousness of the breaches which he himself had admitted.

76. In these circumstances it seems to me that the question that I have decide, if I am correct in my view that on the basis of the matters *then* before the SDT a decision to close the Solicitor's practice and impose a limited practising order was unduly severe, is whether the Solicitor's ill-judged proceedings and affidavits, and his wrongful resiling from the admissions freely entered into before the SDT, are sufficiently weighty considerations to tip the scales in favour of the more serious sanction now sought by the Law Society. In order to decide this issue, it is necessary to return to the legal principles that are applicable in cases of this nature and apply those principles to the facts of the present case.

Legal principles to be applied

77. In *Coleman,* McKechnie J. in the Supreme Court stressed that the court is not bound by any opinion expressed or recommendation made by the tribunal. The case law demonstrates that the High Court has on several occasions departed from the recommendations made by the tribunal, and that the ultimate arbiter is the court, not the SDT.

78. In *Law Society v. D'Alton* [2019] IEHC 177 Kelly P. outlined the approach to be taken in determining the appropriate sanction to be applied against a solicitor found guilty of misconduct:

"*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. [in Bolton v Law Society [1994] 1 WLR 412])';

(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."

79. Irvine P. in the High Court in *Doocey* agreed these were the relevant factors which the court had to take into account in determining the appropriate sanction.

80. Section 8 of the 1960 Act as amended and substituted requires the court to take account of findings of misconduct on the part of the respondent solicitor previously made by the tribunal. It is quite clear that the present findings form part of a substantial disciplinary record on the part of the Solicitor over five sets of disciplinary proceedings, not including the present breaches. The findings in DT147/13 also relate to failures by the Solicitor to comply with the Solicitors Accounts Regulations, including debit balances. The details of the previous infractions are set out in the affidavit of Jonathan White sworn on the 20th March 2024.

81. Some fifteen findings of misconduct were made by the SDT in 2016. In light of this substantial disciplinary record, it seems to me that the Law Society is correct in contending that the misconduct on the part of the Solicitor here is not an isolated occurrence. However, it is only fair to consider that the main underlying cause of the offending does appear to have been addressed, however belatedly. As emphasised earlier, there have been no breaches in the

approximate eight-year period since 2016 when the present breaches were committed. That is directly relevant when it comes to applying the *D'Alton* principles.

82. Moreover, while comparators are not always helpful, it is fair to record for context that there was not present in this case evidence as to deliberate concealment and dishonesty as featured in *Doocey* and *Coleman.*

83. Based upon the facts in *Doocey,* Irvine P. in the High Court concluded that the case concerned *"a complete abuse of the trust and confidence which clients are entitled to expect of their solicitor"* that lay at the upper most end of the scale of seriousness. Irvine P. rejected the view that the case involved nothing more than a chaotic haphazard or incompetent moving of funds. She said it was systematic, extensive and deliberate *"teeming and lading"* with a view to disguising a deficit of €169,152 in that solicitor's client account. The solicitor's misconduct in that case did not stop at teeming or lading because she had used other strategies to conceal deficits in the books of account. Irvine P. rejected outright the submission that Ms. Doocey had not been dishonest. In fairness to the present respondent, it should be emphasised that we are not in *Doocey* territory here.

84. Counsel for the Law Society submitted that the present case bore similarity with the facts in *Coleman* where the Court of Appeal, in upholding a decision to strike the solicitor off the Roll, took into account that the solicitor had withdrawn his admissions of misconduct before the SDT and had shown no insight at all into the nature and character of his misconduct. While that feature could be said to apply in the present case, the case is in my view distinguishable on its facts because *Coleman* involved a higher order of offending. The findings made by the SDT in that case, and admitted by Mr. Coleman, included charges that he caused a fictitious contract to come into existence for the express purpose of misleading a bank, devised arrangements to circumvent a condition of a loan approval issued by another bank, caused the name of another solicitor to be written on a contract for sale, without the

authority of that solicitor, destroyed a file consisting of three contracts, without instructions of the parties thereto, and acted for multiple sides in a property development transaction, in a possible conflict of interest contrary to Article 4 (a) of the Solicitors (Professional Practice, Conduct and Discipline) Regulations 1997, S.I. No. 85/1997. In my view, the *Coleman* case is distinguishable for these reasons.

85. Separately, the Society submits that the present case also bears similarity with the decision of Barniville P. in *Walsh* where the President upheld the recommendation of the SDT to impose a limited practice order and certain other restrictions. In my view, the facts of *Walsh* are quite far removed from the facts of the present case. *Walsh* concerned a solicitor who had breached undertakings on a repeated basis over many years. Cases involving breaches of undertakings have always been viewed with the utmost seriousness. Some of the undertakings in *Walsh* went back 20 years. The findings of misconduct made by the tribunal in that case demonstrated a common pattern of non-compliance by the solicitor with undertakings and an ongoing failure to respond to complaints and to the Society's correspondence. The Law Society had described the respondent as a "*recidivist who had demonstrated a 'similar pattern of behaviour now over a 26 year period'"* and who had displayed a "*cavalier attitude*" to his obligations to comply with the Solicitors Accounts Regulations.

86. Moreover, in *Walsh*, findings were also made against the solicitor for failing to file accountant's reports on four separate occasions in breach of the Regulations. The President expressly found (at para. 53 of the judgment) that were it not for the disciplinary proceedings against the solicitor, and subsequently the Society's application to court, it was unlikely that Mr. Walsh would have taken the necessary steps to enable the bank to release him from his undertaking. No such considerations arise in the present case.

87. A further distinguishing feature is that the solicitor in that case, while opposing the limited practice order, indicated on a number of occasions that it was his wish to retire from practice. In my view, while the *Walsh* decision is undoubtedly of assistance in outlining the relevant caselaw and principles, ultimately the facts of the case and the level of offending involved are sufficiently different to render the outcome on sanction inapplicable to the present case.

88. However, as I have said, the President's outline of the applicable legal principles in *Walsh* is of particular assistance. At para. 47 of the judgment, the President references the principles identified by Finlay P. in *Medical Council v. Murphy* (Unreported High Court 29th June 1984). They include the following: First, the sanction must reflect the serious view that must be taken of the nature and extent of the misconduct concerned in order that the solicitor be deterred from engaging in similar misconduct in the future. Second, the sanction should be of an order which makes clear to other members of the profession, the gravity of the misconduct concerned. The charges in the present case include allowing a debit balance on a client account, failing to have adequate vouching on files and failing to have in place any semblance of orderly books of account. Third, the sanction must ensure the protection of the public and of clients and opposing parties in any transaction with whom the solicitor would be dealing as a solicitor. Fourth, the court should consider whether it is possible to afford leniency to the respondent in the particular circumstances of the case.

89. Applying these principles, the court must ask itself whether the recommended sanction is necessary in order to protect the public, maintain the reputation of the solicitor's profession, punish the solicitor for the breaches found and discourage other members of the profession from similar conduct.

90. Having reviewed the papers extensively and considered further the oral and written submissions of the parties, I am just about persuaded that it would be an over-reaction to the

Solicitor's misconceived appeal and misjudged affidavits to uphold the SDT recommendation to close his practice. In light of the contents and tone of the Solicitor's affidavits, I confess it is difficult to have much sympathy for the Solicitor's position. His discontent with the outcome of the proceedings before the SDT was no justification for the invective and *volte-face* that followed. The Law Society was perfectly correct in its criticisms of the Solicitor's later affidavits, which at a minimum call into question the genuineness of the insight purportedly shown by the Solicitor, and undoubtedly reduce the discount or credit due to the Solicitor for the mitigating factors.

91. While the Solicitor has done himself no favours, I do think it is necessary, as I have said, to pause and take a step back for a moment and consider the Solicitor's offending in its proper context. However unimpressive the Solicitor's conduct and attitude *post* the SDT hearing may be, the court still has to match the gravity and seriousness of the offending with an appropriate sanction that meets the overall circumstances of the case and takes into account the regulatory objectives identified by Kelly P. in *D'Alton* and by Finlay P. in *Murphy.* At the end of the day, the court must select a sanction that is proportionate to the gravity of the misconduct in the case and that sufficiently protects the public and upholds standards in the profession.

Overarching features of the case

92. In my view, there are a number of overarching factors present here that cumulatively call into question the necessity for the far-reaching order sought by the Law Society. These are firstly, the Law Society's acceptance that the breaches involved were not at the upper end of the spectrum so as to put a strike-off order in play. Second, the unusual feature (the "crystal ball point") that eight years have elapsed since the offending, and no breaches have been established or disciplinary charges brought in the intervening period, despite annual

Law Society audits. This necessarily takes from the argument that a limited practice order is *necessary* in order to protect members of the public.

93. Third, it appears to be accepted that the Solicitor has taken proactive steps towards ensuring there will not be a repeat of the accounts difficulties that featured up until 2016, and that the Harvest accounts system introduced in 2016 appears to have addressed the root of the underlying problem. Again, that factor is relevant to the regulatory concerns that lie at the heart of *D'Alton.*

94. Fourth, in terms of the punishment element, it is fair to say that a number of the aggravating features that are evident in other cases are not present in this case. The facts of this case are far removed from the facts that presented in *Coleman* and *Doocey*. That is not in any sense to minimise the seriousness of the present respondent's breaches, but rather to attempt to locate the breaches in their correct place within the overall spectrum of offending.

95. Fifth, it is important not to lose sight of the fact that the original charges before the SDT included the headline allegation of possible debit balances of €605,514 and that this charge was ultimately dropped in the agreement that was reached before the SDT. This factor is relevant to whether it was disproportionate for the Law Society to press for an order closing the Solicitor's practice, at that stage.

96. Sixth, the impaired level of insight demonstrated by the Solicitor's misconceived proceedings before this court, and the "high" affidavits, whilst undoubtedly relevant, should not be allowed to displace all other issues. The impaired insight is relevant in two separate ways: a) it reduces the extent of the credit due for mitigation and b) it is relevant to the risk of reoffending in that a person who fails to understand the seriousness of disciplinary breaches, and who is inclined to minimise them, is more likely to reoffend. However, this latter point is outweighed by the reality that, on the facts here, 8 years have intervened without any further charges.

97. When assessing the question of the reduced level of credit due for the mitigating factors, it is important not to overlook important sanctioning principles. One such principle is the consideration that a failure to plead guilty should not be treated as an *aggravating* factor in sentencing: see the decision of Edwards J. for the Court of Appeal in *People (DPP) v. J.U.* [2023] IECA 81 at para. 46. It could be said that the Solicitor's *volte-face* and misconceived proceedings here, in sanctioning terms, are akin to a failure to plead guilty in the first place.

98. Seventh, I think it is important to bear in mind that the Solicitor's misconceived proceedings were not ultimately pursued, and certainly were not pressed by counsel. This approach was presumably taken on instructions, however belated. The only case advanced by the Solicitor in the hearing before me was that the recommended sanction was excessive. In my view, this is relevant not only to the issue of costs, but to substantive issues as well. This tends to indicate that, notwithstanding the completely misguided decision to issue proceedings based on a purported resiling from the Solicitor's admissions before the SDT, the Solicitor at least retained a measure of insight before the court to give instructions to his barrister to only pursue the issue of sanction.

99. In light of these predominant features of the case, it would in my opinion be an over-reaction to end the respondent's career as a sole practitioner on account of the inappropriate and misjudged proceedings and affidavits and his ill-advised attempts to unwind the admissions made before the SDT in October 2023.

100. For these reasons, while the Solicitor's decision to resile from his admissions is to be deprecated, and undoubtedly negatives many of the mitigating factors urged on his behalf before the SDT, I am going to give the respondent Solicitor one more chance to keep alive the possibility that he can continue to practice as a sole practitioner. However, I will only do so on terms. Before outlining what those terms should be, I should record that in the course of argument in the case, I asked counsel for the Solicitor whether, in the particular

circumstances of his client's case, a suspension order coupled with other conditions might reflect a more proportionate outcome. Counsel indicated that while he wasn't making any submission inviting a suspension order, such an outcome would be preferable to the order sought by the Law Society.

101. Having regard to the factors discussed above, and in the overall circumstances of the case, I have decided, by a fine margin, that it would not be appropriate or just to end the Solicitor's career as a sole practitioner. In my view, it is possible to fashion an alternative sanction that gives the Solicitor one more chance and that also meets the regulatory objectives identified in the caselaw.

Conclusion

102. In the circumstances, therefore, the sanctions I propose to impose in this case are the following:

1. An order suspending the Solicitor from practice up until 20th March 2025, which happens to be twelve months from the date of the Society's application to the court issued on the 20th March 2024. I will hear the parties on the precise date the suspension order is to come into effect following this judgment.
2. An order that, in the event the Solicitor wishes to practice as a sole practitioner following that period of suspension, he must demonstrate to the satisfaction of the Law Society that he has undergone appropriate CPD and training courses on ethics, accounts management and compliance. The precise form that this condition will take can be agreed between the parties, with liberty to the parties to apply to court should that be necessary.
3. An order that, for a period of three years from the date of the court's order, the Solicitor will be required to provide the Law Society with a report from his accountant every six months confirming that the Solicitor's client accounts and

office accounts are being maintained to a satisfactory standard. Again, I will hear from the parties on the precise wording to go into the order to reflect this condition.

4. An order that, should the Law Society at any stage wish to carry out an inspection of the Solicitor's practice, or of any particular files or aspect of the practice, the Solicitor is required to proactively assist such inspection by permitting Law Society representatives to enter his practice and carry out such inspections and examination of files and accounts, as may be necessary. (This condition is intended to prevent the tension and situation that arose following the Law Society's initial inspection of the Solicitor's practice in 2015. In imposing this condition, I am not saying, and should not be taken as saying, that there was anything wrong with previous inspections of the Solicitor's practice or that previous inspections were unauthorised or invalid).
5. The parties can address the court on the necessity for the co-signatory requirements to remain in place, and on the extent thereof. The court's provisional view on this issue is that the co-signatory requirements should remain in place for the time being.
6. An order that the Society will have liberty to re-enter the proceedings on 72 hours' notice, in the event of any breach of the conditions set out above.

103. I will hear the parties further on the relief sought at para. 2 of the notice of motion that the respondent Solicitor pay the sum of €15,000 to the Law Society's Compensation Fund; and the relief sought at para. 3 that the Solicitor pay the sum of €15,000 measured costs in respect of the Society's costs before the Solicitors Disciplinary Tribunal.

104. I will list the case for further submissions on these discrete issues and on the wording of the proposed conditions. In the meantime, the parties are free to discuss the issues of costs and final orders.

Signed: Micheál P. O'Higgins

Appearances:

Neasa Bird BL, instructed by Jonathan White, Solicitor, Law Society of Ireland

Rory Kennedy BL, instructed by Lohan & Co. Solicitors, Athlone, Co. Westmeath