Neutral Citation Number: [2024] EWHC 3003 (Ch)

Case No: FS-2024-000003

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

IN THE MATTER OF THE SOLICITORS ACT 1974
AND IN THE MATTER OF A SOLICITOR

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 27/11/2024

Before:

HIS HONOUR JUDGE JARMAN KC
Sitting as a judge of the High Court

Between:

(1) SANTERS SOLICITORS LIMITED
(2) MARTYN HOWARD SANTER **Claimants**

- and –

(1) THE LAW SOCIETY OF ENGLAND AND WALES

(2) SOLICITORS REGULATION AUTHORITY LIMITED

Defendants

Mr John McLinden KC and Mr John Critchley (instructed on direct access) for the **claimants**
Mr David Hopkins (instructed by **Gordons LLP**) for the **second defendant**
The first defendant did not appear and was not represented

Hearing dates: 12 and 14 November 2024

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Approved Judgment

This judgment was handed down remotely at 10.30am on 27 November 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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HIS HONOUR JUDGE JARMAN KC

HHJ JARMAN KC:

Introduction

1. The claimants (the company and Mr Santer respectively) apply under the Solicitors Act 1974 (the 1974 Act) for orders that an intervention notice served upon them without prior notice by the second defendant (SRA) is invalid or should now be withdrawn. Mr Santer is a solicitor who has practised on his own account for almost 40 years, mainly by carrying out domestic and commercial conveyancing for a clientele which he has built up over that period from premises in Barking. The company was incorporated on 30 August 2022 to take over that practice. Mr Santer is a director and majority shareholder of the company and its compliance officer.

2. By September 2022, Mr Santer was looking to retire from practice because of ill health and to sell it on. In that month he agreed to sell it to someone whom he thought to be Asad Sahi, a registered foreign lawyer, for some £90,000. In November 2022 the company engaged that person on a consultancy basis, to assist in the practice. The person thought to be Asad Sahi was in fact Yawar Ali Shah, a disbarred barrister who had served a term of imprisonment in 2013 for conspiracy to defraud when he impersonated a genuine firm of solicitors and misappropriated almost £3 million: see *Attorney General's Reference (Nos 070/2014 & 083/2014)* [2014] EWCA Crim 2267. When increasing Yawar Ali Shah's sentence, the Court of Appeal observed that the destination of these moneys was "carefully hidden" so that his personal gain was unknown. Unless the context otherwise dictates, references in this judgment to Asad Sahi for convenience are to Yawar Ali Shah posing as Asad Sahi, with respect to the real Asad Sahi and with no criticism at all of him.

3. The intervention notice was served on one ground under schedule 1 paragraph 1(1)(a)(i) of the 1974 Act and on two further grounds under schedule 2 of the Administration of Justice Act 1985 (the 1985 Act) para 32(1)(d)(i). Each ground was put on the basis that the SRA had reason to suspect dishonesty: first on the part of Mr Santer as a solicitor in connection with his practice; second, on the part of Mr Santer as manager of the company in connection with the company's business; and third, on the part of the person known as Asad Sahi as an employee of the company in connection with the company's business.

The statutory framework

4. It may be convenient to set out the material parts of the two pieces of legislation. Section 35 of the 1974 Act provides: "The powers conferred by Part II of Schedule 1 shall be exercisable in the circumstances specified in Part I of that Schedule." Paragraph 1(1) of Schedule 1 provides:

> "…the powers conferred by Part II of this Schedule shall be exercisable where—
>
> (a) the Society has reason to suspect dishonesty on the part of—
>
> (i) a solicitor…in connection with that solicitor's practice…"

5. Paragraph 6 of Schedule 1 provides:

> "(1) Without prejudice to paragraph 5, if the Society passes a resolution to the effect that any sums of money to which this paragraph applies, and the right to recover or receive them, shall vest in the Society, all such sums shall vest accordingly (whether they were received by the person holding them before or after the Society's resolution) and shall be held by the Society on trust to exercise in relation to them the powers conferred by this Part of this Schedule and subject thereto and to rules under paragraph 6B upon trust for the persons beneficially entitled to them.
>
> (2) This paragraph applies—
>
> (a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the solicitor or his firm in connection with—
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> (i) his practice or former practice,
>
> (ii) any trust of which he is or formerly was a trustee, or
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> (iii) any trust of which a person who is or was an employee of the solicitor is or was a trustee in the person's capacity as such an employee;
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> …
>
> (3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.
>
> (4) Within 8 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.
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> (5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit."

6. Paragraph 9 of Schedule 1 provides:

> "(1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society—

> (a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession or under the control of the solicitor or his firm in connection with his practice or former practice or with any trust of which the solicitor is or was a trustee; and
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> …
>
> (2) The person appointed by the Society may take possession of any such documents on behalf of the Society.
>
> …
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> (7) The Society, on taking possession of any documents or other property under this paragraph, shall serve upon the solicitor or personal representatives and upon any other person from whom they were received on the Society's behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.
>
> (8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours' notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents or other property to such person as the applicant may require.
>
> (9) A notice under sub-paragraph (8) shall be given within 8 days of the service of the Society's notice under sub-paragraph (7).
>
> …
>
> (11) On an application under sub-paragraph (8) … the Court may make such order as it thinks fit."

7. Section 9(6) of the 1985 Act provides that Schedule 2 thereof shall have effect and paragraph 32(1) of Schedule 2 provides:

> ".. where—
>
> (d) the Society has reason to suspect dishonesty on the part of any manager or employee of a recognised body in connection with—
>
> (i) that body's business,
>
> …
>
> the powers conferred by Part II of Schedule 1 to the 1974 Act shall be exercisable in relation to the recognised body and its business in like manner as they are exercisable in relation to a solicitor and his practice."

Background to the intervention

8. The effect of the intervention notice under the 1974 Act therefore was to vest all money held by Mr Santer or his practice in the SRA and to require him or his practice to produce or deliver up to the SRA all documents in their possession in connection with the practice. For these purposes, another firm of solicitors, Gordons LLP, was appointed an agent of the SRA. Further, Mr Santer's practising certificate was immediately suspended (section 15 (1A)). Gordons LLP took over some 500 live files in the practice. Upon inquiry, Mr Hopkins for the SRA told me that clients were informed of the intervention and advised to find new solicitors. Gordons LLP are currently carrying out a reconciliation of monies on clients' accounts. Those clients who lose out have been or will be advised to seek compensation from a fund managed by the SRA for that purpose. This whole process can take up to one year. However, there was no detailed evidence before me as to the present position on such matters.

9. It is not in dispute that Asad Sahi carried out a good deal of genuine work for the claimants. However, it is now clear that there is good reason to suspect that he and his associate, Pooja Hazari, acted dishonestly in conducting work on some of the conveyancing files. This included falsifying title documents and making false mortgage applications.

10. The crux of the case for Mr Santer is that rather than being complicit in this dishonest conduct, he was as much taken in as anyone else. He signed a contract of sale with Asad Sahi and began to receive payments on account from him. As the SRA was aware, it was known by this time that fraudsters were looking to buy established practices as a vehicle for fraud. Mr Santer's case is that he failed to spot the fraudulent conduct before it was too late.

11. Two distinct questions arise for determination. The first is whether there was a sufficient basis to suspect dishonesty on the part of Mr Santer at the time of the intervention. If not, the notice as against him was invalid and that is the end of the matter. If so, the second question is whether with all the information that is available now the risk posed to the claimants by continuing the intervention outweighs the risk to the public by withdrawing the notice, particularly in relation to clients' money. Most interventions result in the practice being shut down or sold. In respect of each of these questions, the SRA bears the burden of proof on the balance of probabilities.

12. The process in respect of the intervention notice was that after receiving reports referred to below, the SRA appointed a forensic investigating officer (FIO) in March 2024 to investigate the company, who reported on 8 July 2024. The report ran to 58 pages with 647 pages of appended documentation relating to the company. The report referred to previous investigations of the company in 2023 which had been closed without further action, during the course of which Mr Santer had been warned that established practices were being targeted to be purchased by fraudsters as a vehicle for fraud. The report referred to correspondence from a firm of solicitors called Watlingtons, for whom Asad Sahi had previously worked, alleging that he had left with files and owing substantial sums of money for unauthorised expenditure. It also referred to the arrest of Asad Sahi on 5 June 2024 and of Pooja Hazari on 18 June 2024 for conspiracy to steal, and that Mr Santer was informed of the arrest of Asad Sahi on the same day but did not inform

the FIO. The documentation included photographs of the driving licence, passport and utility bills in the name of Asad Sahi.

13. The documentation also included several letters written by Mr Santer to the FIO in the course of the investigation. In these letters he pointed out what he said were many errors on the part of the FIO. By a letter dated 19 April 2024 the FIO enclosed a letter of authority for Mr Santer to sign for access to the company's bank account, saying that it was an omission that this request had not been made earlier. That brought forth a four-page reply from Mr Santer dated 29 April 2024 saying that he was "aggrieved" by the "fishing expedition" by the FIO to widen the enquiry based on "misinterpretation of events." He further said that he was being drawn into a vendetta between two parties (he meant Watlingtons and Asad Sahi) and that the SRA was "going along with it." He said that he had co-operated, but he would not be a party to the FIO contacting the company's bank as that would "cause concern."

14. That report led to a notice recommending intervention and an accompanying bundle dated 18 July 2024 prepared by an investigating manager of the SRA, which appended the FIO report in its entirety. That bundle ran to some 760 pages. The notice referred to the background, including that Mr Santer was admitted as a solicitor in 1982. The opinion was expressed that the photographs on the ID documents of Asad Sahi were different to those of Yawar Ali Shah supplied by the police. It said that either Mr Santer was complicit or incompetent. It pointed to numerous breaches of rules made under the 1974 Act and codes of conduct.

Case law on intervention

15. The notice also set out some law and referred to the basis of the court's approach on an application to it under the 1974 Act. *Dooley v The Law Society (No 1):* ChD 15 Sep 2000 was cited, in which Neuberger J, as he then was, said:

> "The Court's decision is a two-stage process. First it must decide whether the grounds under paragraph 1 are made out; in this case, primarily, whether there are grounds for suspecting dishonesty. grounds for suspecting dishonesty. Secondly, if the Court is so satisfied, then it must consider whether in light of all the evidence before it the intervention should continue. In deciding the second question, the Court must carry out a balancing exercise between the need in the public interest to protect the public from dishonest solicitors and the inevitably very serious consequences to the solicitor if the intervention continues."

16. The notice continued that his approach was endorsed and clarified in *Sheikh v The Law Society* [2006] EWCA Civ 1577, in which Chadwick LJ referenced an observation of Sir Robert Megarry, Vice-Chancellor, in *Buckley v The Law Society (No 2*) [1984] 3 All ER 313. It was said that the decision maker must be satisfied there are grounds to intervene into the individual practice of Mr Santer and Santers Solicitors and that it is necessary to exercise the powers of intervention in the public interest to protect the public. The ground was whether there was reason to suspect dishonesty, and it was not necessary to find dishonesty. When considering whether there was such reason, reference was made to *Sritharan v The Law Society* [2005] EWCA Civ 476, *Buckley v*

Law Society (No 2) [1984] 3 All ER 313 and *Yogarajah and anor v The Law Society* [1982]. The relevant sections of these cases were attached.

17. On 17 July 2024 a director of the SRA delegated the decision whether or not to issue a notice of intervention to a single adjudicator, on the basis there was a severe and imminent threat to the public. On 18 July the adjudicator received the notice and the bundle.

18. In a decision dated 24 July, the adjudicator dealt firstly with whether to consider the matter without disclosure of the notice to Mr Santer. She decided that she should, after she had "carefully considered the reasons advanced along with the case law cited and relied upon."

19. The case law which the adjudicator summarised included *Buckley v Law Society (No 2)* [1984] 3 All ER 313. Today it is the SRA who makes that decision on the behalf of the Law Society. The purpose of intervention under the 1974 Act was dealt with by Sir Robert Megarry VC, which the adjudicator cited briefly. The full citation is as follows:

> "The powers of intervention conferred by Schedule 1 [of the 1974 Act] are plainly powers that are intended to enable the Law Society to nip in the bud, so far as possible, cases of dishonesty by solicitors. The power to act on suspicion is a strong power, and there must often be a real element of risk in its exercise. But the decision of Parliament that the Law Society is to have power to act on suspicion necessarily involves a decision that the Law Society is to take whatever risks are involved in so acting; and these include risks both to the society and to the solicitors concerned."

20. The adjudicator also referred to *Giles v Law Society* (1995) 8 Admin LR 125. Again, the full citation from which the reference was taken comes from the judgment of Nourse LJ who said:

> "In Yogarajah v The Law Society [unreported 31 May 1982] Walton J considered the provisions of Sch 1 to the 1974 Act... He summarised his views thus:
>
> "This provides a simple and sensible statutory scheme: on one hand enabling the Law Society to act swiftly when the possibility of mischief becomes apparent and, on the other hand, enabling the solicitor, against whom such action is taken, to apply as swiftly to the Court to obtain a suspension of such activity on its behalf. I see no necessity for complicating this scheme and so, in effect, depriving it of its essential characteristics - swiftness of action - by the introduction of the concept of natural justice into a category of situations - a reason for suspicions - into which it does not sensibly fit."
>
> Those observations were, with others of Walton J in the same case, approved by Balcombe LJ (with whose judgment Oliver

> and Neill LJJ agreed) in Buckley v The Law Society, unreported, 9 October 1985.
>
> Mr McCulloch seeks to distinguish the decision and reasoning of Walton J in Yogarajah v The Law Society on the ground that what the judge was there considering was the more extreme argument that the solicitor must be given a fair opportunity to meet the case against him before the notice of intervention is given. That is not a valid ground of distinction. The judge's view, approved by this court in Buckley v The Law Society, was that the rules of natural justice do not apply at all to the giving of a notice of intervention on the ground of suspected dishonesty. In my view, on a careful construction of the provisions of Sch 1 of the 1974 Act in the context in which it was passed, and for the reasons stated by Walton J, there is no requirement, at the time that a notice of intervention under para 1(1)(a) is given, for the solicitor to be given particulars of the suspected dishonesty or of the reasons for suspecting it. If he applies to the High Court under para 6(4), he will have the opportunity, as the appellant did here, of knowing what the case against him is and of answering it."

21. That position, as the adjudicator observed, has not been altered by the passing of the Human Rights Act 1998. In this context she referred briefly to *Neumans LLP v Law Society* [2017] EWHC 2004 (Ch), a decision of Newey J as he then was. He said this:

> "It is true that the Giles case was decided before the Human Rights Act was passed, but in Holder v Law Society [[2003] EWCA Civ 39], in which Carnwath LJ referred to Giles, the intervention procedure was held to be compatible with the European Convention on Human Rights and the First Protocol to it. Again, I can see no good reason for natural justice principles to have any greater application in the context of a 1985 Act intervention than they do with an intervention under the 1974 Act."

The grounds for the adjudicator's decision

22. The decision to issue the notice of intervention in the present case without prior notice to the claimants was not as such challenged by them. Mr McLinden KC on their behalf accepts that the rules of natural justice as such do not apply to the process. However, he submits that that is a factor to be taken into account in the determinations which I have to make. Moreover, he submits that where there is no notice, then by analogy with the duty of full disclosure when a party applies without notice for an interim remedy such as injunctive relief, similarly the SRA had a duty to make full disclosure to the adjudicator and to Mr Santer. Mr McLinden KC is particularly critical of the SRA not disclosing earlier to the claimants the true identity of Asad Sahi, when this was known to the SRA from March 2023 and when the claimants were asking for information. Mr Santer was told by the police on 10 July 2024 that Asad Sahi was a pseudonym. I shall deal with these submissions when I deal with Mr McLinden KC's submissions that, properly seen, there was no ground to suspect Mr Santer of dishonesty.

23. The adjudicator then referred briefly to the background and to the fact that Mr Santer was the company's compliance officer for both legal practice and finance and administration and the signatory on the company's bank account. She recorded that the SRA had received several reports about the company. In February 2024, a Michael Gelardi told the SRA that he had been introduced to a property transaction by Yawar Ali Shah, who he subsequently found out had been convicted of conspiracy to commit fraud. His file had been transferred from another solicitor to Asad Sahi at the company and he now suspected that Asad Sahi had misappropriated some or all of £60,000 of his money. In April 2024, the police told the SRA that documents relating to the company had been fly tipped that month. In June 2024, TSB bank said it had received some £684,000 into the company's account and after checks with HM Land Registry had reason to believe a document associated with the transaction had been altered. In June 2024, the SRA received a second report about this transaction from solicitors who said they had transferred some £1.8 million to the company the previous month that about £1.5 million was to be used to redeem a loan but discovered this money had instead been transferred to an unconnected third party.

24. In the letters which Mr Santer wrote to the FIO during the investigation, the errors which he alleged against the FIO included that the company acted not for Mr Gelardi but for his seller, and only acted in the probate relating to another conveyancing file.

25. The adjudicator then referred to the investigation report of the FIO whom SRA instructed in March 2024 and who reported on 8 July 2024 raising several concerns which the adjudicator set out. These included that Asad Sahi at the company was Yawar Ali Shah who had been convicted of conspiracy to commit fraud and had been involved in three law firms in which the SRA had intervened. He had been arrested on 5 June 2024 for conspiracy to steal. Mr Santer was his supervisor. Mr Santer refused to give the officer authority to contact the company's bank and failed to reveal one bank account (ending in 8125) into which it was then discovered £30,000 had been paid from Asad Sahi. The documents which had been fly tipped included some relating to Mr Gelardi's transaction. Robert Jones had been working at the company who was the subject of an order under section 43 of the 1974 Act and the company needed permission of the SRA to employ him which it did not have. There were other persons at the company of concern including Pooja Hazari who told the officer she did not do any work for it but the officer found her name on a mortgage redemption statement and letters of the company. The final concern noted by the adjudicator was that SRA had been told that Asad Sahi and Robert Jones were committing fraud and money laundering, using Pooja Hazari's name to open files and blackmailing people, although the informant (whose identity was not disclosed to the adjudicator) expressly indicated that it was not thought Mr Santer knew about this.

26. The adjudicator referred to the burden of proof being upon the SRA and the standard of proof was the balance of probabilities. Having done so, she found that there were reasons to suspect dishonesty on the part of the person known as Asad Sahi, which were set out in the decision notice as follows:

> "6.4.1 There is evidence that "Mr Sahi" is actually Yawar Ali Shah, a disbarred barrister who has been convicted of conspiracy to commit fraud. The FIO has obtained custody images of Yawar Ali Shah and confirmed that this is the individual at the firm's offices who introduced himself as "Mr Sahi".

> 6.4.2 "Mr Sahi" has also provided ID verification documents (through Mr Santer) which do not match his actual appearance. Instead, the ID appears to be for a genuine registered foreign lawyer (RFL) called Asad Sahi. There is therefore evidence that suggests that Yawar Ali Shah may be dishonestly holding himself out as a genuine RFL to disguise his true identity as a convicted criminal.
>
> 6.4.3 There is also evidence that "Mr Sahi" is an employee at the firm. Mr Santer has confirmed that "Mr Sahi" was working as a consultant. There is also documentary evidence that he was working on litigation and conveyancing transactions. The SRA's definition of an 'employee' is widely constructed, and includes any person engaged under a contract of service.
>
> 6.4.4 "Mr Sahi" is connected with a number of conveyancing transactions at the firm, including that of Mr Gelardi, who said he was concerned that Mr Shah (now believed to also be "Mr Sahi") had fraudulently misappropriated his money."

27. The claimants do not take issue with that part of the adjudicator's decision. Indeed, the claimants rely upon the dishonesty of Yawar Ali Shah in submitting that it was his conduct which gave rise to the need to investigate and not that of Mr Santer.

28. However, the adjudicator also found there was reason to suspect dishonesty on the part of Mr Santer. These were set out at length in the decision, and were expressed to include, but not limited to, the following:

> "Employees at the firm
>
> 6.5.1 Mr Santer has employed several individuals at the firm whose behaviour and history is cause for concern. In particular, Mr Santer employed "Mr Sahi", who is actually likely to be a disbarred barrister who has been convicted of fraud.
>
> 6.5.2 I have carefully considered the possibility that Mr Santer did not know "Mr Sahi's" true identity. However, as set out above, I do not need to find Mr Santer has been dishonest, only that there is reason to suspect dishonesty on his part. The fact that Mr Santer has employed "Mr Sahi", a convicted criminal holding himself out as someone else, is reason to suspect dishonesty on his part. Mr Santer passed "Mr Sahi's" ID documents to the FIO, and there is credible evidence that the person working at the firm did not resemble the ID he provided. The fact that Mr Santer seemingly did not question "Mr Sahi's" identity at all, despite this, is reason to suspect dishonesty on his part.
>
> 6.5.3 Mr Santer has also employed other individuals of concern, including Robert Jones (also known as Robert Offord/Robert

John). Mr Jones is subject to an order under section 43, preventing him from working in a recognised body without the SRA's permission. Mr Jones had an email account at the firm, the FIO discovered attendance notes recording that he met with clients of the firm and his name is on various documents, including a transfer deed (TR1) and sale contract. Mr Jones is named as a 'senior caseworker' on some emails.

6.5.4 Again, I have considered that Mr Santer may be unaware of Mr Jones' true identity, particularly given that he has changed his name. However, the fact that Mr Santer has employed not only "Mr Sahi", but also Mr Jones at the firm gives rise to a reasonable suspicion of dishonesty on his part. Furthermore, I note that the FIO told Mr Santer about Mr Jones' true identity (and the section 43 control order) on 4 March 2024. There is no evidence that Mr Santer took any steps to address this (such as apply for permission to employ him) after that date.

Fly-tipped documents

6.5.5 Shortly after the SRA started a forensic investigation into the firm, a number of documents belonging to the firm were found having been illegally fly-tipped. I infer from this that someone at the firm wished to avoid proper scrutiny. It is suspicious that shortly after the SRA attended at the firm's offices, documents belonging to the firm were found dumped, presumably to avoid them being discovered or examined by the SRA.

6.5.6 I do not know that Mr Santer was involved in this illegal fly-tipping, or that he knew about it. However, I repeat that I do not need to find Mr Santer has been dishonest, only that there is reason to suspect him of dishonesty. Someone at the firm with access to these documents tried to dispose of them illegally. Mr Santer is the sole owner and director of the firm. He would have had access to the documents, and he knew that the SRA was conducting a forensic investigation. This is sufficient, in my view, to give rise to a reasonable suspicion of dishonesty on his part.

Reports of potentially fraudulent activity

6.5.7 The SRA has received numerous reports about the firm which suggest that serious misconduct may be taking place. This includes a report from Santander that someone connected with the firm submitted a fraudulent mortgage application. Although Mr Santer said he knew nothing about this, he is connected to the property in that particular transaction, having been named co-executor in the estate to which the property belongs.

> 6.5.8 Mr Santer told the FIO that the only work he had done as executor of the estate was to obtain a valuation of the property for probate. He said that he then renounced his position as executor. However, when the FIO reviewed the file, it was evident that Mr Santer had exchanged emails with his co-executor about selling the property and offers that had been received. Mr Santer also told the client that the highest offer had been received from 'a gas engineer'. The purportedly fraudulent mortgage application said that the applicant was a plumbing and heating engineer. Mr Santer had at least some knowledge and involvement with this transaction, which is at odds with his statement to the FIO.
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> 6.5.9 Mr Santer's assertion that he only obtained a valuation for probate purposes is directly contradicted by the evidence on the file. This, combined with the fact that Santander suspected that the mortgage application was fraudulent, is reason to suspect dishonesty on Mr Santer's part.
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> Bank authority
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> 6.5.10 On 19 April 2024, Mr Santer refused to provide the FIO with a form of authority to allow the SRA to obtain information direct from the firm's bank. His reasons for doing so were, in my view, not credible. Mr Santer said he was concerned that the bank may withdraw his banking facilities if he passed authority to his regulator to access information about the accounts. It is routine for FIO's to ask for authority to contact a firm's bank directly. There is no evidence that this would result in the withdrawal of banking facilities for a firm.
>
> 6.5.11 When he did provide information about the firm's bank accounts, Mr Santer failed to disclose to the FIO that the firm had another business account (ending 8125). The FIO has been able to obtain evidence that this particular account received £30,000 from Yawar Ali Shah in three round sum transfers.
>
> 6.5.12 The FIO says that Mr Santer is a signatory to the firm's accounts and the only person with access to the firm's online banking. It is reasonable to infer that Mr Santer not only knew about this account, but knew that its statements would reveal that the firm had received money from Mr Shah. Mr Santer's failure to disclose this particular account, and his refusal to sign the authority for the bank gives rise to a reasonable suspicion that he wished to avoid disclosing the account as it would demonstrate the connection between Mr Shah and the firm.

29. The adjudicator then pointed out that the notice referred to her alleged that Mr Santer and the company have failed to comply with various rules under the 1974 Act. She did not propose to make any findings about those allegations, which was not to say there

were no breaches, but that she did not consider it necessary in the circumstances to determine whether there have been any such breaches.

Criticisms of the adjudicator's decision

30. Care must be taken when determining whether there was reason to suspect dishonesty on the part of Mr Santer to have regard only to what information was, or should reasonably have been, before the adjudicator. In the course of these proceedings Mr Santer has filed six witness statements with exhibits and his secretary Christine Loader has filed one. He has also made witness statements to the police.

31. Mr McLinden KC points to what he categorises as errors in the adjudicator's decision. One such error is the reference to Mr Santer being connected to the property which was the subject of the Santander allegation of a fraudulent mortgage application, when the application was made via a broker unconnected with him. However, the suspicion of the adjudicator was raised because the documentation showed emails from him relating to selling the property and offers received, which went further than his claim only to have been involved in obtaining a valuation. Another such error is said to be his reference to a gas engineer, which the adjudicator suspected showed greater knowledge of the sale than he claimed. Mr McLinden KC points out that that reference related to a different mortgage provider, something the adjudicator missed. Again, however, the issue for the adjudicator was the inconsistency between Mr Santer's account and the documentation.

32. More fundamentally, however, Mr McLinden KC criticises the adjudicator for not referring to the two-stage approach or the definition of dishonesty contained in SRA guidance, namely what was the individual's genuine knowledge or belief at the time and was it dishonest by the standards of ordinary decent people. Mr McLinden KC submits that is supported by the Supreme Court decision in *Ivey v Genting Casinos (UK) Ltd* [2018] AC 391, where it was said that when dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The adjudicator should have referred to this and applied it, as any judgment would have done.

33. Mr McLinden KC further submits that the adjudicator failed to carry out a balancing exercise and did not refer to certain matters which he says are "exculpatory." These include previous investigations of the company which resulted in no action, that the payments from Asad Sahi were from an account bearing that name, that the concern about the bank being contacted by the FIO was in the context of publicity of banks closing accounts of thousands of businesses, that there was no reference to the fact that one of those who carried out the fly tipping was an associate of Yawar Ali Shah, and that altered documentation and certificates of title deceived Mr Santer. It is further submitted that the adjudicator omitted, when dealing with the tip-off, to record that the person making the tip off indicated that they didn't think that Mr Santer knew of any dishonest conduct on the part of Asad Sahi and Pooja Hazari. All this shows, says Mr McLinden KC, that the adjudicator misunderstood the test and/or did not read all the material before her.

Discussion

34. In my judgment none of these criticisms is well founded. The exercise which the adjudicator was engaged in was not a fact-finding exercise but a swift exercise to decide whether suspicions were such as to justify urgent intervention to protect the public. The adjudicator's decision was not a judgment and should not be read like one, but, as Mr Hopkins submits, should be read fairly as a whole. In this context the relevant tests were set out in the documentation before her, and she should be taken as applying these unless there is good reason to show to the contrary. In my judgment there is none. She may also be taken to be aware of the meaning of dishonesty and there is no indication that she misunderstood that concept.

35. There was no need to refer, as part of that exercise, to the fact that previous investigations resulted in no further action when the focus of the adjudicator was on the present investigation. The suspicion as to payments from Asad Sahi arose not from the name they were made in but the fact they came from him and that Mr Santer had not disclosed the account into which they were paid. The adjudicator expressly considered the possibility that Mr Santer did not know of the true identity but correctly pointed out that the exercise was not fact finding but whether there was suspicion. In that context, she was entitled to take into account the difference between the photographic ID in the name of Asad Sahi and the photographs of Yawar Ali Shah. She expressly indicated that she did not know if Mr Santer was involved or knew about it. As to the bank account, the adjudicator was entitled to take into account that a request for authority is usual and that in this particular case there was no evidence of concern about closure of the account.

36. Accordingly, there was in my judgment clear and cogent reasons for the adjudicator to find suspicion. As Mr Hopkins submits, it is sufficient if just one or some of the reasons of the adjudicator were sufficient to found a suspicion. In my judgment the engagement of the person thought to be Asad Sahi with suspicious ID, payments in that name to the company, the failure of Mr Santer to authorise the FIO to contact the company's bank, and his failure to disclose the account 8215 in particular give rise to sufficient suspicion of Mr Santer's dishonesty to justify intervention.

37. In my judgment, the alleged failures of the SRA to notify Mr Santer of Asad Sahi's true identity do not detract from that finding of suspicion. The rules of natural justice do not apply to such a swift process by a regulatory body to protect the public from suspected dishonest solicitors. This process is not akin to a without notice application for interim relief between private parties where the court is concerned with such matters as whether there is a serious issue to be tried and the balance of convenience between the parties.

Case law on withdrawal of the notice

38. I now turn to the second question. This has also been the subject of judicial comment, with some lack of consensus. On appeal in *Buckley v Law Society (No 3)* (9 October 1985, unreported), Balcombe LJ giving the lead judgment of the court, said:

> "…In my judgment there is no way in which this court, or any court, can determine a question upon which no issue in the proceedings now depends. As it seems to me, that really is the short answer to this appeal – that whether or not the Law Society had proper grounds for suspicion in the first place, as it appears from the authorities to which I have referred (which, as I have

> said, are in my judgment correct) the decision has to be made at the time of the hearing. At the time of the hearing…, as indeed now, there is no effective way in which this notice can be withdrawn because… [inter alia the solicitor had been made bankrupt.]"

39. In *Giles* at first instance, Carnwath J, as he then was, referred to Schedule 1 of the 1974 Act and said this:

> "The grounds for intervention stated in paragraph 1 of the Schedule are not to be construed as separate and mutually exclusive procedures. The difference between the various sub-paragraphs is relevant to certain points in the Schedule, for example the need to give notice under paragraph 1(2) and to some of the powers. However, subject to any express limitations, I can see no reason why the scope of the powers should be confined by the particular sub-paragraph used to initiate the process. Thus, for example, the Society may properly intervene on the grounds of suspected dishonesty, but thereafter maintain the intervention if it becomes apparent that there is a breach of the rules but no actual dishonesty. Similarly they may intervene for a breach of the rules, and subsequently discover dishonesty and pursue the intervention on that basis. There is no policy reason for requiring the notice to be withdrawn, so long as it is justified in the light of the facts known to the court, and the solicitor has had a fair opportunity to deal with any allegations against him (see Buckley (No 2) p.317 d)."

40. When the case went to the Court of Appeal, Sedley J, as he then was, sat as a member of the court. He said at page 118:

> "On such an application [under paragraph 6(4)] it is for the court to decide whether or not to direct withdrawal on the material then before it.
>
> If it is demonstrated to the court that a notice given under Part II of the schedule is fundamentally flawed (for example because it is based on an ultra vires resolution) it may well be that a direction for withdrawal should be made ex debito justitiae, leaving it to the Law Society to decide whether, in the light of what it then knows, it ought to pass a fresh resolution to intervene. But while the para 6(4) procedure is manifestly provided in substitution for the ordinary recourse to judicial review (see Buckley v The Law Society [1983] 2 All ER 1039) so that any point as to vires which might have been available under ord. 53 of the Rules of the Supreme Court is equally available on the originating summons under para. 6(4) in the Chancery Division, the relationship of discretion to law will not necessarily be the same. For instance, even in a case where it can be shown by the solicitor that the original notice ought not to have been issued because, say, the original evidence prompting

> the intervention was too exiguous to found a reasonable suspicion, the court need not direct withdrawal if on intervention abundant evidence of dishonesty has been found. . . For the rest, it is by common consent a matter for the court's judgment (I prefer not to use the word discretion in this context) whether it should direct withdrawal – a judgment which may be significantly, though not conclusively, affected by the Law Society's own view of the facts, since the view taken by the professional body charged with the regulation of solicitors is in itself a relevant evidential factor to which the Judge not only can but must have regard."

41. In *Sheikh* Chadwick LJ, after referring to some of the authorities set out above, drew a distinction between cases where the intervention was challenged and where it was not.

> "84. …there is a danger that a court may be led into error by uncritical adherence to the "two-stage process" suggested by Mr Justice Neuberger in Dooley. As I have said, there may be cases - those in which there is a challenge to the validity of the resolution or to the service of the intervention notices – where the court does need, first, to decide whether the grounds under paragraph 1 were met at the time of the decision to intervene. But those were not, I think, the cases which Mr Justice Neuberger had in mind; as his own approach to the decision which he had to make in that case shows (transcript, pages 37 and 38). For my part, I find instructive the…passage in the judgment of Mr Justice Carnwath at first instance in Giles v The Law Society (unreported, 12 April 1995)."

42. The passage referred to was that cited above. At [91] Chadwick LJ observed that the task, given that the society was opposing withdrawal of the intervention notices on the basis, inter alia, that the suspicion of dishonesty which had led to the resolution to intervene had not been dispelled, was to address the society's concerns in the context of weighing the risks of reinstatement. He added at [92]:

> "I should add (by way of parenthesis) that, for my part, I confess to some doubt whether, as Mr Justice Sedley suggested in Giles, the court could refuse to direct withdrawal of a notice which "ought not to have been issued" because the original evidence prompting the intervention "was too exiguous to found a reasonable suspicion" on the basis that abundant evidence of dishonesty had been found on intervention – if he intended to include in that example a case where, on a proper analysis of the position at the time the decision to intervene was taken by the Society, the powers of intervention had not become exercisable. As Sir Robert Megarry, Vice-Chancellor, observed in Buckley v The Law Society (No2) [1984] 1 WLR 1101, 1105: "the society ought not to be free to intervene on inadequate grounds in the hope that what will be found will justify the intervention". But I recognise that the Vice-Chancellor clearly took the view in that case that it would be open to the court to refuse to direct

> withdrawal notwithstanding that, on the facts known to the Society at the time of the resolution, there was insufficient reason to suspect dishonesty…
>
> As I have said, the powers under Part II of schedule 1 to the 1974 Act are exercisable only in circumstances within Part I. If, at the time when the Society purports to exercise its powers under Part II, those powers have not become exercisable - because the pre-condition (the existence of circumstances within Part I) is not met - it seems to me difficult to avoid the conclusion that the exercise of the powers was, indeed, ultra vires in the public law sense. But that is not how it has appeared to other judges in other cases. This is not a case in which it is said – or could be said – that the intervention powers were not exercisable at the time when they were exercised. It is unnecessary to decide the point; and I do not do so."

43. These passages amongst others were considered by Sir Gerald Baring in *Khan v Law Society* [2022] EWHC 484 (Ch) and having done so he concluded:

> "Although the procedure under sub-paragraph 6(4) of Schedule 1 is a substitute for what would otherwise be an application for judicial review, it does not follow that it replicates judicial review in all respects. The ultimate question in an application under sub-paragraph 6(4) does not relate to the vires of the SRA's decision or whether it was otherwise unlawful and should be quashed; rather it is whether the court should now order the notice to be withdrawn so that the intervention ceases. This appears to be the effect of the Court of Appeal's decision in Buckley, as well as the view of the other judges referred to by Chadwick LJ. Even were it not binding on me, I would prefer the approach of Balcombe LJ, 169 as supported by the Vice-Chancellor and, it appears, by Neuberger, Carnwath and Sedley JJ (as they all then were)."

Witness statements in these proceedings

44. As indicated, the parties in these proceedings have filed witness statements with exhibits. No witness was called to give oral evidence before me, but the witness statements are largely unchallenged.

45. Within a week or so of the intervention and of Mr Santer receiving notice thereof and the decision of the adjudicator with the documents relied upon, he signed a witness statement running to some 121 paragraphs dealing in detail with the grounds for intervention. He set out his background, which was that he had practiced since 1985, and since 1990 in his present premises in Barking. He has acted as receiver, been president of his local law society several times, and a legal chair of a NHS disciplinary panel. He had no regulatory issues before the investigations in 2023, which resulted in a clearance notice. He makes the point that one of these was prompted by information that persons at the firm had been previously been associated with interventions. On that occasion the investigators dealt with Asad Sahi but had no issues.

46. Mr Santer says that in 2022 after the loss of his wife and his own health issues he was looking to retire and to sell the practice. Asad Sahi became interested, and they agreed a sale, and that was the context in which he agreed to take him on as a consultant in the meantime. He accepts that he looked at the driving licence "very quickly" but it was an old picture. He took other steps to verify identity, including obtaining a CV and a copy of Asad Sahi's practising certificate, and he spoke to a former employer at Watlingtons, who at that point raised no concerns. He also looked at the SRA website to review Asad Sahi's record. This person worked mostly remotely on duplicate files, which Mr Santer would review periodically.

47. He says that in late 2023 became aware that Robert Jones was assisting Asad Sahi and being held out as a caseworker, and this led to his confronting Asad Sahi, which in turn led to the latter indicating that some other arrangement for the sale of the practice might be pursued. This was when Pooja Hazari became involved as a potential purchaser. Mr Santer said he made appropriate checks, and it appeared that she was a qualified solicitor of 12 years with no adverse history. That does not appear to be in dispute.

48. The SRA admits that a search of its website for Robert Jones would not have led to the discovery of the section 43 order, because the SRA's records had not been updated after a name change. Mr Santer says that he did not apply for permission for him to work in the practice after March 2024, because he instead decided to prohibit any future involvement with the practice. He accepts that by December 2023, Robert Jones was emailing him from a personal email address about a conveyancing transaction, which contravened his instruction to Asad Sahi, so he decided to take responsibility for that transaction.

49. In respect of the bank accounts, an authority to the bank was not requested in the previous investigation and so Mr Santer says he did not think that this was normal and was requested after he had signed several letters of authority allowing documents and computers to be taken and information to be provided to insurers. The FIO said that this had not been requested before because of an omission. Mr Santer said that he was aware of some clients who had bank accounts withdrawn and articles in the press about a wider problem in this regard and was concerned that this might happen with the accounts of the practice, all of which he had disclosed.

50. As for the bank account which he did not disclose (ending in 8125), he says that this had in the past been an account of the practice, but had latterly only been used as a personal account for himself and his late wife, after discussion with the manager to the effect that there would be advantages in relation to their mortgage by putting their savings into this account. The payments from the account named Asad Sahi were paid into that account as these were payments on account of the sale, which proceeds were personal to Mr Santer.

51. As for the fly tipping, the London Borough of Newham told the police that it was conducted by two individuals, one of which was identified as Syed Ali Haider. The SRA acknowledges that the latter is an associate of Yawar Ali Shah. Mr Santer used a confidential waste disposal service in the Barking premises and makes the point that in the early part of 2024 he was away from the premises for an operation and then for some weeks because of illness.

52. Ms Loader, Mr Santer's secretary of some 18 years, also made a statement the same day, in which she also deals with Mr Santer's health issues. She commented to Asad Sahi that the photograph on the driving licence looked much younger to which he replied that it was a very old photograph. She recalls a heated exchange between him and Mr Santer, in which the latter said Robert Jones should not be dealing with files. Ms Loader also says she was not aware of any concerns with the files that Asad Sahi was working on, and that she was so taken with Asad Sahi that he was instructed as an advocate in proceedings relating to her family.

53. Two witness statements have been filed in these proceedings on behalf of the SRA, by Lauren Barclay, a solicitor at Gordons LLP with care and conduct of the case. In her first statement, dated 29 September 2024, she makes reference to the SRA being able to intervene for breaches of accounting rules and codes of conduct, as well as suspicion of dishonesty, but does not deal with the detail of any alleged breaches in this case. She confirms that the investigation in 2023 was instigated because of a report that someone was involved at the company who had been associated with a previous intervention. She also confirms that the investigator met with Asad Sahi and was shown his driving licence, but the investigation was closed in March 2023 on the basis that no transaction was identified as potentially involving fraud.

54. Ms Barclay makes the point that Mr Santer told the investigator that he agreed heads of terms to sell the practice to Asad Sahi, but that it later transpired that by this point he had signed a contract of sale. She also deals with Robert Jones and says that the documentation shows that he had a company email address, held himself out as senior caseworker, and his initials appeared in some 17 entries in the client opening book.

55. She then referred to what she termed "a further suspicious transaction." This related to the file of a Mr Siddique, from whom the company received over £300,000 to redeem a mortgage on a conveyancing transaction but which was paid to another company as authorised by Mr Santer as the only signatory on the accounts of the practice.

56. Mr Santer filed a third witness statement dated 7 October 2024 in which he says that by then "sizeable" damage had been caused by the intervention to the practice and to his reputation which caused him great stress, and which withdrawal of the notice of intervention would mitigate. Some three days later he filed his fourth witness statement to deal with the new matters raised by Ms Barclay. He says that Mr Siddique was introduced by Asad Sahi, who initially dealt with the conveyancing which was then taken over by Pooja Hazari. When a complaint was made about the misdirected proceeds, Mr Santer had a meeting with Mr Siddique and then recorded the complaint in a letter to him dated 4 July 2024. Mr Santer in his witness statement refers to forged documentation including a forged redemption statement and the charges section of the registered title, showing the company to which the proceeds were directed as a second mortgagee due that sum. He says that he was deceived into believing these were genuine, and that he also believed that the proceeds were being properly directed.

57. This witness statement goes on to deal with Robert Jones and says that the client opening book was compiled in handwriting usually by Ms Loader, with initials to show who had requested an entry. 14 entries had the initials RJ, all between February and September 2023, and simply show that it was he who asked Ms Loader to make an entry. Finally, in relation to the contract for sale, he says that what he told the investigator in 2023 was that the agreement had been reduced to writing, but he was

not asked for a copy, and had he been asked he would have provided one. It is noteworthy that the contract did not finalise the purchase price.

58. Ms Barclay's second statement is dated 30 October 2024. In that she deals with a claim form filed by a barrister for unpaid fees, to which Mr Santer completed, signed and filed a defence dated 17 July 2024. The fees related to High Court litigation on behalf of Syed Ali Haider, for whom Asah Sahi was acting. The defence was put on the basis that Asad Sahi was an independent contractor not authorised to incur the fees, and not on the basis, as Mr Santer knew by then, that he was not who he claimed to be. Ms Barclay also exhibits emails passing between Mr Santer and Asad Sahi after the latter's arrest, which Mr Santer knew about on the day of the arrest. It is said that these showed that Asad Sahi was still being paid, still carrying out work, and still being held out as a consultant. One email from Mr Santer, dated 19 July, so just a few days before the intervention, asks Asad Sahi for documentation before a threat to refer the matter to the SRA was carried out.

Discussion

59. In my judgment, having regard to all of the evidence now before the court, the reasons to suspect dishonesty on the part of Mr Santer, have been, if not dispelled, significantly lessened. In particular, there is no reason to suspect that Mr Santer was complicit in the dishonest conduct of Asad Sahi. I accept that he carried out appropriate identity checks, and was deceived by the driving license, as was his secretary and the investigator in 2023. Although the photograph on the licence is different to the police photographs of Yawar Ali Shah (and hence to the face of the person he saw before him) the difference in my judgment is not stark and conceivably may have been a younger image of the same person. It is unlikely that a professional with an unblemished record of over 40 years, as Mr Santer was, would risk all by becoming complicit with a sophisticated fraudster in the closing months of the practice. Other solicitors had previously been deceived by Yawar Ali Shah.

60. I also accept that the intervention has already done sizeable damage to the practice and to Mr Santer's reputation, causing great stress. In the absence of detailed evidence from the SRA as to the present state of the practice, it is likely that many clients have left and instructed other solicitors. However, the withdrawal of the intervention notice is likely to have real mitigation impacts in both respects, as Mr Santer says. Given that some of the clients, as he says, have been clients for years and some are a third generation who have instructed the practice, it is not unrealistic to expect that upon withdrawal of the notice and the fact that Yawar Ali Shah and his associates are no longer carrying out work for the practice, some clients will remain or return.

61. That must be balanced against the risk to the public of such withdrawal. I do not accept Mr McLinden KC's submission that there is no risk now that Yawar Ali Shah and his associates are no longer working in the practice, although I accept this means that the risk has significantly lessened. However, as Mr Hopkins submits, even on Mr Santer's case, it is clear that there have been failings on his part of supervision and of ensuring compliance, and a lack of insight into his failings. He accepts that he knew that Asad Sahi was employing assistants without checks. He says that he discovered Robert Jones was being held out as a caseworker in late 2023 (which the SRA does not accept) and stopped him doing so, but even if that is right, Mr Hopkins says that is one of many red

flags which should have warned Mr Santer of deeper compliance and governance issues.

62. Mr Hopkins is particularly critical of Mr Santer in continuing to engage with Asad Sahi knowing of his arrest and, from 10 July 2024, that he was an imposter. Mr McLinden KC's response is that he had no choice because he had taken over files from Asad Sahi after the latter's arrest and needed information from him. I accept that to a large extent Mr Santer had to continue to engage with Asad Sahi in the interests of the clients, and it may be that the other aspects, such as the continued work, payment and reference to a consultant, was thought to be necessary for a smooth handover. These aspects and the reference to avoiding a report to the SRA are a little concerning. However, these should be viewed in the context that Mr Santer was then unaware of any charges and had not received the notice or the documentation before the adjudicator upon which the notice was based.

63. Mr Hopkins is also very critical of the defence which Mr Santer signed in the barrister's claim because he says that was likely to mislead the claimant in that claim and the court. Mr Santer knew by then the Asad Sahi was a fraudulent imposter and should have said so in the defence or amended it. Whilst Mr Santer disclaimed any knowledge of Syed Ali Haider, Mr Hopkins points to invoices from the company in which his name was marked by Mr Santer and other reasons why this disclaimer should not be accepted. Mr McLinden KC responds that it was unnecessary in the defence to refer to fraud, and what was really in issue was Asad Sahi's authority. He also refers to an email on 23 July 2024 from Mr Santer to his secretary concerning the barrister's claim for fees in the Syed Ali Haider matter saying that on investigation there was no file opening sheet and that the file was never opened in the office, so it is clear Mr Santer knew nothing. I accept that, and to some extent that the issue for the defence was lack of authority, but a failure to give the full picture to the court is a little concerning. Again, this should be viewed in the context of what knowledge he then had and did not have about Asad Sahi.

64. Mr Hopkins submits that, if necessary, I should find that there are breaches of rules and codes of conduct, which he set out in detail in the course of his submissions. These require, amongst other duties, proper governance, upholding confidence, co-operation with investigations and self-reporting. I respectfully agree with Sir Gerald Barling in *Khan* that such a course is open to the court and that any suggestion to the contrary by Chadwick LJ in *Sheikh* is obiter and against the weight of the authority which he cites. That is not to say however, that such a course is necessarily appropriate on the facts of this case. Although allegations of such breaches were set out in the documentation before the adjudicator, she chose not to deal with them, and they formed no part of the intervention notice, which was put solely on the basis of reasons to suspect dishonesty. They could have been included in the notice, as similar allegations were included in the notices dealt with in some of the authorities cited above but were not. Alleged breaches were not particularised or dealt with in the evidence from the SRA before me, and the onus is upon the SRA to prove them on the balance of probabilities. I accept that Mr Hopkins is instructed by the SRA and is entitled to submit on its behalf that on the uncontroverted evidence before me such breaches are made out. However, the notice of intervention dealt only with suspicion of dishonesty, and in the circumstances described above in my judgment it is not appropriate for this court to find allegations proved on the basis of submissions.

65. Mr Hopkins makes the further point that withdrawing the notice would be pointless as the SRA could issue another notice. That may well be so, but there is no evidence before me of an intention to do so or what terms any such notice might contain. This is not a reason not to withdraw a notice issued on the basis of reasonable suspicion of dishonesty in the terms set out in the notice.

66. In my judgment, although there is likely to be some risk to the public by withdrawal, such risk is likely to be relatively small now that Mr Santer has had the experience of investigation and intervention and now that Yawar Ali Shah and his associates no longer work in the practice. Mr Santer is unlikely to put himself in this position again. The damage to him and the practice and potentially to clients by the notice continuing, although already suffered to a sizeable extent, is such as to outweigh that risk. It would provide him with an opportunity to sell what remains of his practice and to retire without the mantle of reasons to suspect dishonesty. It is not necessary or proportionate to continue with the intervention notice in my judgment, and accordingly I shall order that the notice is withdrawn.

67. I am grateful to counsel for their assistance. They helpfully indicated that any consequential matters not agreed can be dealt with on the basis of written submissions. A draft order, agreed as far as possible, together with any such submissions, should be filed within 14 days of hand down of this judgment.