SHAREHOLDERS ACTION GROUP

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12 January 2018

Our ref: Signature.SRA

Dear Sirs,

SERIOUS BREACHES OF SRA CODE OF CONDUCT BY:
SIGNATURE LITIGATION LLP (SRA ID:567257) AND
MR GRAHAM PAUL KINGSBY HUNTLEY (SRA ID: 135070) AND
MR JULIAN PAUL CONNERTY (SRA ID: 157626)

1.1 We wish to lodge formal complaints about serious breaches of the Solicitors Regulation Authority's Code of Conduct ("the Code of Conduct") by a firm of solicitors: Signature Litigation LLP of 38 Fetter Lane, London, EC4A 1BT, and its partners, Mr Graham Huntley and Mr Julian Connerty (together "Signature" or "the respondents" or by name as the context admits), who have had conduct of these matters, all of whom practice from the address detailed above.

1.2 We have raised complaints directly with the firm but the responses of the respondents are unsatisfactory. The respondents do not accept that there have been breaches of the Code of Conduct.

1.3 Our complaints can be briefly summarised as follows:

i. **Signature's financial arrangements with the RBS Group (through NatWest) created an own interest conflict;**

ii. **Signature failed to make material disclosures about its financial arrangements with the RBS Group;**

iii. **Signature failed to provide any or complete costs information, for example by sending a Client Care Letter, particularly with regard to its retail claimant clients;**

iv. **Signature imposed or attempted to impose unilaterally, against its clients' best interests, a new Conditional Fee Agreement which was incepted at a time which would have maximised the financial rewards for the partners of the firm; and**

v. **Signature acted in litigation, on behalf of a new client, against an existing/previous client of the firm, despite Signature having advised the existing/previous client on the terms of the agreement which was the subject of the dispute in the litigation (a client conflict of interests).**

2. *Background facts*

2.1 The RBoS Shareholders Action Group Ltd ("the Action Group") was set up in 2009 in the wake of the collapse of RBS, and the Government's financial intervention to prevent a run on the Bank and other fiscal disorder. The Action Group's declared purpose was to assist investors in a collective effort to recover their losses following their purchase of shares in the 2008 RBS Rights Issue and the subsequent failure of the Bank. It is well documented that in 2008 the RBS Group began to have liquidity problems, and it instigated one of the largest Rights Issues in corporate history in order to attempt to stave off its liquidity problems. The Action Group attracted some 35,000 individual retail investors, and some 110 corporate, or institutional investors. Each member signed an agreement with the Action Group. On advice, and after some time, the Action Group brought, on behalf of its members, a group litigation claim against RBS and four of its former Directors (including the former Chairman and former Chief Executive) who were named as individual defendants.

2.2 Importantly for this complaint, the RBS Group is made up of the Royal Bank of Scotland, NatWest, Ulster Bank and Coutts, all holding Banking Licences.

2.3 By July 2015, after two changes of solicitor, the Action Group instructed the respondents to act for it on behalf of its Members who were claimants in the litigation. Court proceedings had been commenced by the Action Group's former solicitors, Bird & Bird LLP.

2.4 Signature sent the Action Group, by email, a "Client Care" letter on 7 July 2015, along with terms and conditions. The Client Care letter contained the following paragraphs:

> *1. Our client*
> *1.1 RBoS Shareholders Action Group Limited will be our client in relation to this matter ("you", "your") and we will accept instructions from your representatives, Ms Lorena Aguirre (CEO), Mr John Campbell QC (Legal Director), Mr Gerard Walsh and Mr Cornelius La Kjaer and from any other individuals authorised by them during the matter. As your management may evolve or restructure from time to time, similarly those responsible for giving instructions may also change.*
> *1.2 Our duties and responsibilities are owed only to you as our client, and we do not accept responsibility for our work to anyone else.*
> *2. The scope of our instructions*
> *2.1 We are instructed to act on your behalf in relation to claims brought by your members against The Royal Bank of Scotland Group plc, Frederick Goodwin, Sir Thomas Mckillop, John Cameron and Guy Whittaker with the claim numbers as listed at Annex I to this letter (the "Claim").*

2.5 In later communications, Signature has also confirmed that its clients also include the Action Group's Members, who are the claimants in the RBS Rights Issue Litigation.

2.6 On 16 March 2017, Manx Capital Partners Ltd ("Manx"), one of a number of corporate claimant Members of the Action Group agreed to fund the litigation through to the end of the trial on liability. As a condition of that funding, the Action Group entered into an agreement with Manx by which the Action Group irrevocably delegated to Manx the management of the litigation ("the Delegation Agreement") and the right to communicate with the Action Group's corporate members. It expressly did not provide

for engagement by Manx with the Action Group's retail investor Members, leaving that task to the Action Group. Manx then appointed Ms Kathryn Revitt, its Managing Director, to become the litigation manager of the litigation and to provide instructions to Signature on the litigation.

2.7 After a number of adjournments, the trial in the RBS Rights Issue was due to commence in early June 2017. On 3 May 2017 the trial judge, Mr Justice Hildyard, wrote to the parties (via their solicitors, including Signature) making a disclosure which he clearly considered to be material. His Lordship stated in his letter:

> *I am Managing Director of the farming company, though its day to day agricultural operations are carried out by a contractor and farming consultants; and I have a 10% shareholding and hold the remaining shares as one of two trustees for a trust in which I am not myself beneficially interested.*
>
> *The details can be double-checked if necessary when the manager returns from a break but I believe the arrangements in question are as follows.*
>
> *The farming company has two current accounts, one of which has an overdraft facility for the purposes of the farming contracting arrangements of about £96,000. This latter account is more often than not in credit, and only goes into overdraft at certain times of year if grain sales or payments are delayed.*
>
> *The farming company also has a loan account presently outstanding in the sum of £106,000, charged on a buy to let cottage acquired by it some 10 years ago, which has a value of at least double that amount. I believe that the loan is reduced by automatic monthly payments out of rent received from third party tenants. The facilities are also secured by farming land and a personal guarantee from me (limited to £100,000).*
>
> *I had, I am afraid, completely overlooked these accounts and their association with RBS. I do not personally bank at the Nat West or any RBS entity, and the arrangements are long term facilities which have carried on for many years without difficulty or occasion for review. As indicated above, I focused on them only when a newly appointed manager telephoned me to arrange an introductory meeting on his appointment.*
>
> *I regret the oversight; but although I do not myself believe that they should cause any difficulty I consider that it is right that having been reminded of them I should disclose these arrangements to the parties at the first opportunity.*
>
> *If any party wishes to make further submissions then time will have to be set aside for that purpose. If a delayed start to this morning's hearing would assist, please inform my clerk.*
>
> *Mr Justice Hildyard*

2.8 In July 2017, the Action Group discovered that Signature had entered into a debenture loan arrangement with NatWest, part of the RBS Group, on 2 March 2016 during the course of the litigation against the RBS Group.

2.9 At no time prior to July 2017 did any of the respondents make any disclosure to the Action Group about the debenture and its financial arrangements, which included

certain onerous conditions, explained in more detail below. Signature did not tell the Action Group, nor its Member claimants about the debenture until it sent its letter of 25 September 2017, after the RBS Rights Issue Litigation had been settled by means of a compromise agreement.

2.10 Signature has received several millions of pounds of legal fees in conducting the RBS Rights Issue Litigation for the Action Group and its members.

3. Signature's Debenture Arrangement With NatWest

3.1 Despite being fully aware that it was involved in significant and high profile litigation against the RBS Group (which includes NatWest), on 2 March 2016 Signature quietly[1] entered into a financial arrangement with NatWest, namely a debenture granting specific charges over assets and by means of express conditions granting onerous rights/powers to part of the RBS Group over Signature's business, in exchange for a loan of money or access to an overdraft facility, or both.

3.2 The deed underpinning the financial arrangement, dated 2 March 2016, gave important rights/powers to NatWest over Signature, including:

> 1. *Owner's Obligations*
> *The Owner [Signature] will pay to the Bank on demand all the Owner's Obligations. The Owner's Obligations are all the Owner's liabilities to the Bank (present, future, actual or contingent and whether incurred alone or jointly with another)...*
>
> 2. *Charge*
> *The Owner, as a continuing security for the payment on demand of the Owner's Obligations and with full title guarantee, gives to the Bank:*
>
> *2.1 a fixed charge over all the following property of the Owner, owned now or in the future:*

3.3 Also:

> *2.1.2 all the goodwill of the Owner's business*
>
> *2.2 a* ***floating charge*** *over all the other property, assets and rights of the Owner owned now or in the future which are not subject to an effective fixed charge under this deed or under any other security held by the Bank. (emphasis added)*

3.4 The Debenture Terms attached to the deed granted powers to NatWest which were obviously capable of having a potentially important impact on the conduct of the litigation which was being conducted by the respondents for the Action Group and its members. For example, Signature expressly granted NatWest the following powers:

> *3. Investigating Accountants*
> *The Bank may require the Owner to appoint a firm of accountants to review its financial affairs, if:*

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[1] We use the term "quietly" in this context to refer to the manner in which the financial arrangement with NatWest was (a) not disclosed to the client, the Action Group, and/or (b) the Action Group's members, the claimants in the RBS Rights Issue Litigation.

3.1 any of the Owner's Obligations are not paid when due.
3.2 the Bank considers that the Owner has breached any other obligation to the Bank.
3.3 the Bank considers any information provided by the Owner to be materially inaccurate.

Any review required will take place within 7 days of the Bank's request (or longer if the Bank agrees). The firm, and the terms of reference, must be approved by the Bank. The Owner (and not the Bank) will be responsible for the firm's fees and expenses, but the Bank may make payment and the Owner will repay the Bank on demand.

3.5 In essence, the respondents gave the RBS Group powers to obtain information on important or potentially important strategic matters relevant to the Action Group's Members who were claimants in the RBS Rights Issue Litigation. These powers allowed NatWest the ability to review the firm's financial affairs, including examination of the question of whether funds had been deposited by or on behalf of the Action Group or its Members, for example by litigation funders, to fund the RBS Rights Issue Litigation.

3.6 In agreeing to these terms with NatWest, Signature thus gave the defendant in the litigation actual or potential access to their client and office accounts, and provided it with a potential strategic advantage to know (for example) how much had been paid towards the Action Group's costs and the financial position of the claimant/s . Granting this power gave a significant actual or potential litigation advantage to the RBS Group. This advantage was the more acute given the significant disparity in financial resources between the parties to the litigation. RBS has spent over £125 million in legal costs defending the Action Group's claim, and as a major bank backed by the UK Government and taxpayer, its resources were essentially limitless. The claimants, several thousands of whom were private investors and pensioners, did not have the financial resources to match the RBS Group and relied on own resource and third party funding.

3.7 In fact, the RBS Group threatened, in the early part of 2017, to make an application for security for costs against the funders of the litigation. The power to investigate Signature's accounts or have access to them, gave the RBS Group significant actual or potential advantages in relation to the conduct of the litigation.

3.8 Signature gave the NatWest, via the Debenture Terms, an ability for the defendant in the litigation, the RBS Group, to take over the firm's business or even terminate the solicitor's business:

6.1 The Bank or any receiver may:
6.1.1 carry on the Owner's business.

3.9 Also:

6.5 The Bank may exercise any of its powers even if a receiver has been appointed.

3.10 It has been suggested by Mr Huntley as an early, and perhaps not final, response to the Action Group's complaint that one could assume that the RBS Group would act properly and, for example, comply with banking Codes of Conduct or comply with legal obligations laid down in statute. Such an ethical stance could not reasonably have been believed by Signature for all the reasons articulated below. That

proposition certainly provides little or no comfort to the Action Group as Signature's client, or to the Action Group's members who were involved in suing RBS, which had been untruthful as they saw it and alleged in the litigation's pleadings, obtained their money following the issue of a false prospectus, thus contravening FSMA ss.87A and 90.

3.11 The context of the litigation is also important. The RBS Group was involved in defending its position in relation to a huge claim with a value of nearly £1 billion. Its exposure (if it was unsuccessful in its defence) was highly significant. It is a matter of public record that RBS has spent over £125 million in aggressively defending the Action Group's claims to date. That fact alone highlights its determination to defend an action which was ultimately settled.

3.12 On 30 January 2017, Mr Julian Connerty, then a partner of Signature, signed a Statement of Truth confirming that the facts alleged by the claimants in the Amended Particulars of Claim settled for the RBS Rights Issue Litigation were true. That originating document included (at §35A) the following allegation of unlawful, untruthful and deceptive conduct by the RBS Group, :

> *35A. In the circumstances, the Prospectus did not fairly disclose the weaknesses in RBS's position, and gave an untrue and misleading impression of RBS's position, in breach of section 87A and 90 of FSMA [Financial Services and Markets Act 2000]. Particulars of the nondisclosures and of individual misleading and untrue aspects of the Prospectus are set out below.*

4. Code of Conduct – Conflict of Interests

4.1 The Solicitors' Code of Conduct applicable to this complaint is version 15, from 1 November 2015 ("the Code").

4.2 Chapter 3 of this Code deals with Conflicts of Interests. In relation to an "own interest conflict", the Code states:

> *You can never act where there is a conflict, or a significant risk of conflict, between you and your client.*

4.3 Outcome 3.2 states:

> *O(3.2) your systems and controls for identifying own interest conflicts are appropriate to the size and complexity of the firm and the nature of the work undertaken, and enable you to assess all the relevant circumstances, including whether your ability as an individual, or that of anyone within your firm, to act in the best interests of the client(s), is impaired by:*
>
> *(a) any financial interest;*
> *(b) a personal relationship;*
> *(c) the appointment of you, or a member of your firm or family, to public office;*
> *(d) commercial relationships; or*
> *(e) your employment;*

5. The Best Interests of the Claimants and Action Group

The following are the salient features of the best interests of the claimants and the Action Group (both of which were and are clients of the respondents).

5.1 The interests of the Action Group and the claimants align in relation to ensuring that there was no risk that the RBS Group as the defendant had any powers to interfere with, influence, have a hold over, or obtain strategic litigation advantages through a contractual or other relationship with their solicitors in the litigation.

5.2 Given the very sizeable costs involved in the RBS Rights Issue Litigation on both sides, the Action Group and the claimants wished to avoid any risk whatsoever that the solicitors conducting the case for them might find themselves in a situation where they could be obliged to withdraw from the case at a particular point in the future, perhaps because of the exercise of any of the powers attached to the debenture by the defendant Group, and thus create risks of delay, increased costs and/or a loss of litigation momentum for the Action Group and its Members as the respondents' clients.

5.3 Certainly, the Action Group and the claimants would not have wanted part of the RBS Group to have any direct contractual relationship with, or financial influence over or be able to exercise any powers over their solicitors. This concern applies particularly to any potential strategic access to financial information from their solicitor's bank accounts, including the relevant client accounts and information concerning details of their client and office accounts.

5.4 Ultimately, neither the Action Group nor the claimants would have wanted or agreed to their solicitors entering into a financial arrangement with NatWest, containing onerous conditions and granting wide powers in favour of part of the RBS Group. The circumstances were that many of the individual claimants had already invested their life's savings with the RBS group. That bank had shown no regard for transparency and had already demonstrated, by the issue of the false prospectus that it was willing to act outside the law . The respondents, in contrast, knew and understood every nuance of the legal basis of the case against RBS.

5.5 No sensible client, let alone anyone who had lost large sums of money following the RBS Rights Issue, would want their solicitors to agree to set up such a direct contractual arrangement with a defendant in a case which was still ongoing before the Courts. Such an arrangement could only be for that solicitor's direct financial and commercial benefit, in direct conflict with the interests of its client.

5.6 In this regard, Note 2.7 of Principle 3 of the Code states:

> *2.7*
> *"Independence" means your own and your firm's independence, and not merely your ability to give independent advice to a client. You should avoid situations which might put your independence at risk - e.g. giving control of your practice to a third party which is beyond the regulatory reach of the SRA or other approved regulator.*

5.7 In this case, Signature had a complete disregard for any obvious concerns which might have been raised by the Action Group and/or any claimant at the time Signature entered into the debenture, or thereafter, in the event that the respondents made an appropriate disclosure of this material matter.

5.8 "Whistleblower" reports on the internet indicated that a senior individual involved in the conduct of the litigation may have been in direct communications with members

of Signature's Fleet Street branch of NatWest at a potentially crucial period during the case. Even if these reports were unfounded and cannot be proved, they generated deep concern for the Action Group and for the claimants. The risk of such concern could have been mitigated by the respondents, as it could have both disclosed the relationship and obtained banking facilities from a financial institution outside the defendant's Group of companies. It chose not to.

6. Signature's Own Interest

6.1 Signature's granting of a legal charge over its undertaking in favour of NatWest and, in so doing, agreeing to the restrictive terms in the Debenture, fell within the areas of the firm's own financial interest, and/or its own commercial interests, or commercial relationships.

6.2 Signature's response to the Action Group's initial complaint seems to suggest that the firm was never indebted at any time to NatWest, during the course of the case. That may be, but it is irrelevant. The problem with this response is that it is predicated upon hindsight. It could be fortunate that it was not indebted at any single moment of time during the case to any part of the RBS Group. However, when the firm entered into the debenture arrangement in March 2016, it could not have predicted that it would never become indebted. It is the *risk of conflict of interest* and the inability to predict future events that are central to the conflict of interest. Good fortune viewed with hindsight is no defence to a deliberately concealed yet obvious conflict of interest that arose arguably when the debenture terms were negotiated and agreed and continued when Signature signed the debenture deed on 2 March 2016.

6.3 It is submitted that Signature's own interests are clear. By entering into the financial arrangement it obtained a financial or loan facility with part of the RBS Group, whether or not that facility was to be used, in whole or in part. There was a commercial and financial advantage to Signature's business by having the facility at hand, as something to which it could turn in order to support its business operations.

6.4 In order to obtain the financial facility, with the actual or potential advantages that attached to it, Signature was obliged to agree to to NatWest's terms.

6.5 The decision to enter into a specific financial arrangement with part of the RBS Group was made by partners of Signature, either:

(a) without considering the position of its client, the Action Group, and/or the claimants, who Signature represented against the RBS Group in current litigation; or
(b) was made with specific consideration (and ongoing consideration) of the position and potential concerns of the Action Group and the claimants. None of the respondents identified to the Action Group or its clients (or even privately) any risk of any potential conflict of interest at the time the conflict arose.

6.6 In the period of March 2016 and thereafter, Signature did not make any or full disclosure of the matters described herein to the Action Group. This non-disclosure was in spite of Signature's so-called conflict systems or checks (or the absence of such systems or checks), and it is also in spite of the obvious conflicts and risks of conflicts. This letter deals with material non-disclosure and the effects of it below.

6.7 It is not understood why the respondents could not have entered into a riskless[2] financial arrangement with a bank or financial institution outside the RBS Group. It is submitted that Signature's failure to do suggests that the arrangement was, or may have been particularly beneficial to Signature in some way, as opposed to it looking to other commercial lenders unconnected with RBS. The benefits may, for example, have related to the nature of the NatWest facility, or because of the ease and speed at which the arrangement could be constituted due to an ongoing commercial relationship with NatWest, or because of a greater likelihood of agreement to the request for a facility because of some prior commercial/financial relationship etc. These are all benefits that did, or could, favour the respondents. It is likely that no consideration of any kind was given to the position of the respondents' clients, including the Action Group, when the debenture was negotiated and signed.

6.8 The Action Group reasonably believes that Signature's control systems and checks for identifying any "own interest conflicts" did not exist or, alternatively, completely failed. It is not understood why the conflict checks would have failed when the RBS Rights issue was being conducted by at least two identified partners of the respondents. All the partners of the firm would also have been directly aware of the financial arrangements entered into with NatWest in March 2016. At least one partner must have signed the debenture deed. The Action Group would like to know which partner signed the deed, and whether he or she made any contemporaneous research within the firm's conflict checking records/systems.

7. Code of Conduct – Material Non-Disclosure

7.1 At the time the debenture was created, on 2 March 2016, the Code states the following on the duty of disclosure to clients (Chapter 4):

> *The duty of confidentiality to all clients must be reconciled with the duty of disclosure to clients. This duty of disclosure is limited to information of which you are aware which is material to your client's matter. Where you cannot reconcile these two duties, then the protection of confidential information is paramount. You should not continue to act for a client for whom you cannot disclose material information, except in very limited circumstances, where safeguards are in place. Such situations often also give rise to a conflict of interests which is discussed in Chapter 3.*

7.2 Outcomes 4.2 and 4.5 of the Code state:

> *O(4.2) any individual who is advising a* client *makes that* client *aware of all information material to that retainer of which the individual has personal knowledge;*

7.3 and:

> *O(4.5) you have effective systems and controls in place to enable you to identify risks to client confidentiality and to mitigate those risks.*

7.4 Indicative Behaviour 4.4 of the same version of the Code of Conduct stated:

> *IB(4.4) where you are an individual who has responsibility for acting for a client or supervising a client's matter, you disclose to the client all information material to the client's matter of which you are personally aware, except when:*

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[2] Less risk for the claimants and the Action Group.

(a) *the client gives specific informed consent to non-disclosure or a different standard of disclosure arises;*
(b) *there is evidence that serious physical or mental injury will be caused to a person(s) if the information is disclosed to the client;*
(c) *legal restrictions effectively prohibit you from passing the information to the client, such as the provisions in the money-laundering and anti-terrorism legislation;*
(d) *it is obvious that privileged documents have been mistakenly disclosed to you;*
(e) *you come into possession of information relating to state security or intelligence matters to which the Official Secrets Act 1989 applies;*

7.5 In this case, Mr Graham Huntley and Mr Julian Connerty were the two partners of Signature who had personal conduct of the RBS Rights issue claim for the Action Group and the claimants.

7.6 Signature's duty of disclosure continued throughout the conduct of the litigation, which Signature indicates has not fully concluded at the time of preparing this letter. In particular, Signature's duty of disclosure was continuing at the time that the trial judge in the case wrote to the parties to make them aware of his personal financial relationship with NatWest, on 3 May 2017. The judge's correspondence was seen at least by Mr Huntley. The Code of Conduct at that time was at version 18, but it is not materially different from the passages in version 15 quoted above. The judge's disclosure ought to have (at the very least) acted as a prompt to the respondents to disclose their own financial circumstances to the Action Group.

8. Material Non-Disclosure

8.1 There are five separate issues in relation to material non-disclosure by Signature. Those matters are:

(a) the firm's failure to disclose, or its failure to adequately disclose, that it had a financial relationship with NatWest and to detail the extent of that relationship with NatWest;

(b) the firm's failure to disclose to its clients the actual debenture arrangement entered into with NatWest on 2 March 2016;

(c) the firm's failure to disclose to its clients the matters in (a) and (b) above, when it provided advice to the Action Group (its clients) on the impact of Mr Justice Hildyard's email of 3 May 2017, wherein he made the disclosures of his financial and commercial links to NatWest, all referred to above;

(d) the firm's failure to make material disclosures to the firm's corporate claimant clients, in a "legal update" emailed to them on 3 August 2017, (which was also openly critical of the firm's other clients, a group of retail claimants), where the email provided a misleading reference to the firm having notified the Action Group (orally) of the fact that it banked with NatWest; and

(e) the firm's complete failure, in a "legal update" dated 17 August 2017 which was sent to private retail investor claimants, to notify the firm's clients of the matters in (a) and (b) above, despite the Action Group's specific and prior request to make full disclosures to those clients in their legal update email.

8.2 *Banking Relationship with NatWest*

8.2.1 The Action Group's key officers are certain that, at the time of their instructing Signature, the respondents did not disclose, orally or otherwise, that it had any banking relationship with NatWest, when it accepted the Action Group's instructions. Further, there are no letters to the Action Group to which the respondents can point which show that it made any disclosure of its banking relationship with part of the RBS Group.

8.2.2 Signature appears to rely to some extent on the fact that it tendered invoices to the Action Group which referred in a footer to a NatWest bank Client Account for payment of fees. This notation is said to somehow provide sufficient written notice and disclosure of its banking relationship with NatWest. The Action Group submits that such a notation is not capable of amounting to "disclosure". Signature merely provided information on invoices for payment (as is commonplace), and was not communicating financial banking information material to the conduct of the case.

8.2.3 Even (which is denied), if the notation is purportedly a "disclosure" to the Action Group, the firm did not disclose the nature or extent of the its financial arrangements and relationship with NatWest.

8.2.4 Such disclosure should have included at the very least: the nature of any facilities, the extent of any indebtedness, the scope of any conditions which might impact on a client/s in relation to the conduct of the case; the extent to which RBS might potentially be appraised of the Action Group's affairs, and the level of comfort the Action Group might have with such arrangements.

8.2.5 It is submitted that suggesting that an otherwise unremarked notation appearing on occasional invoices provides sufficient notice or disclosure is irrational, and suggests that the respondents may not understand fully their responsibilities or obligations. Payment by the Action Group, and later by funders, was made directly to Signature's Client Account. A Client Account could never become indebted or overdrawn, as that would have breached the Solicitors Accounts Rules. No loan or lending facilities can be made or arranged on the security of a Client Account. It is plainly incorrect to assert that submitting invoices with a passing reference to a Client Account bank details amounted to the necessary form of disclosure to the Action Group. It is evident that the respondents gave no thought whatsoever to its duty to make disclosure of all relevant information to its client.

8.2.6 Signature's Client Care letter which was only sent to the Action Group is completely silent on the matter of disclosing its financial or commercial relationships with NatWest or the RBS Group.

8.2.7 Despite having now indicated that the claimants are also to be treated as its clients, Signature has failed to send the claimants any Client Care Letter. Until November 2017 it had failed to enter into direct correspondence with the private retail investor-claimants. It took its instructions from the Action Group. Signature has never written to any claimant making any disclosure of its banking or financial relationships with NatWest.

8.3 *March 2016 Debenture Arrangement with NatWest*

8.3.1 Neither the scope of the conditions attached to the debenture of 2 March 2016, and the nature of the financial, commercial and contractual relationship that resulted from the financial arrangement entered into with NatWest in March 2016, were ever disclosed by Signature to the Action Group or to the claimants. In fact, the vast

majority of claimants are still unaware of the debenture arrangement, despite the Action Group having brought the matter to Signature's attention.

8.3.2 The respondents now accept and acknowledge that they failed to disclose the debenture arrangement with NatWest to their clients. In an attempt to exculpate themselves from allegations of professional misconduct, they have argued that the matter was not "material" to their clients' case or to the performance of their professional duties.

8.3.3 However, it is clear, and it is submitted that the debenture was material. The Action Group has detailed above the key obligations, powers and conditions that ran with the financial arrangement, and the potential it had for giving potential advantages to the RBS Group, the defendant in the litigation.

8.4 *Mr Justice Hildyard's Disclosure of His NatWest Banking Arrangements*

8.4.1 If Signature's position is that the debenture was not "material to the matter" at the time it was entered into in March 2016 (which is denied) then it is submitted there can be no doubt that the debenture became material to the matter at the point when Mr Huntley of Signature read the email from Mr Justice Hildyard dated 3 May 2017. That communication disclosed the judge's own financial arrangements with NatWest (as described above).

8.4.2 Signature provided advice to the Action Group and to the claimants that it viewed the judge's personal financial arrangements as a matter which did not impact upon the prospects for a fair trial.

8.4.3 In an email on 3 May 2017, Ms Kathryn Revitt, the Chief Executive of and litigation manager for Manx Capital Ltd, who by that time was liaising with and instructing Signature in the RBS Rights Issue Litigation for the claimants, wrote to the Action Group and imparted Signature's legal advice on the judge's email, making a material disclosure:

> *Neither Signature or I believe this will impact on the ability of the Judge to preside over a fair trial.*

8.4.4 The question is not the *ability* of the judge to preside. The question is whether, in the eyes of a reasonable and informed observer, the existence of a financial relationship between a judge and a member of the group of companies led and owned by the defendant had the actual or potential appearance of bias.[3] In a letter dated 15 May 2017 prepared by the respondents for the Action Group, which was to be sent to the retail investor claimants on the Action Group's note paper, Signature gave the following advice in relation to Mr Justice Hildyard's material disclosure and the potential impact on the case:

> *There is one matter which has recently arisen to which we need to draw your attention.*

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[3] 'The court must first ascertain all the circumstances which have a bearing on the suggestion that the judge was biased. It must then ask whether those circumstances would lead a fair-minded and informed observer to conclude that there was a real possibility … that the tribunal was biased.' Porter v Magill [2002] AC 357 at §102, 103. Other examples are to be found in Gillies v Secretary of State for Work and Pensions [2006] 1 WLR 781 andLesage v Mauritius Commercial Bank Ltd [2012] UKPC 41

A few days ago the Judge in the case, Mr Justice Hildyard, wrote to the legal teams to alert them to a potential conflict of which he had recently become aware. The Judge's family has a farming company, of which the Judge is a Director, which banks with the Nat West (a subsidiary of RBS). The Judge does not personally bank with the Nat West or RBS. He had overlooked this connection until very recently, when he received a call from a newly appointed manager.

The Judge does not himself consider that this connection should present any difficulties for the conduct of the case, but he thought it right to draw the matter to the attention of the parties.

In the meantime, we have requested our lawyers to write urgently to the solicitors acting for the Bank and ask them to confirm RBS's understanding of how the Judge was approached by a member of staff from within the RBS Group at a stage so close to the trail.

On balance, based on legal advice to the Action Group and the information currently available to the Board, we take the view that we should not object to the Judge's continued participation in the case.

8.4.5 Crucially, Signature had provided a letter to the Action Group which recognised, rightly, that the matters raised in the judge's email, in relation to his financial arrangements with NatWest, "*might be seen as a potential conflict*". Furthermore, in the letter prepared by Signature, the firm recognised that the matter was one which "quite properly" should have drawn to the attention of the claimants by the judge.

8.4.6 Signature's draft letter, to be sent out by the Action Group, then advised the clients that the firm was not aware of a legal basis on which Mr Justice Hildyard could be asked to recuse himself and that, on Signature's prepared wording, the Action Group would state that this matter would not "*cause any problem for the conduct of the case*".

8.4.7 From the perspective of the respondents' conduct, at no point when providing advice on the judge's position or preparing a letter to be sent to the firm's claimant clients, did they indicate that the firm had also entered into a loan or debenture arrangement, with onerous terms and conditions, with NatWest. As stated, this should have been disclosed to the Action Group and to the claimants, particularly when the firm was imparting its advice and views on the judge's position.

8.4.8 Clearly, if Signature had advised their clients that the judge had a conflict of interests because of his financial arrangements with NatWest and should, as a result and in he respondents' opinion, recuse himself from the case, the implication would be (if the firm had appropriate safeguards in place) that Signature would have had no option but to have disclosed to its clients the firm's own relationship with NatWest and would have had to cease acting. Signature chose to keep its relationship silent and *ipso facto* found no conflict. Signature's decision not to make any such disclosures allowed the respondents to actually or potentially earn several millions of pounds in future fees in the litigation.

8.4.9 The Action Group and the claimants should have been told of this important matter, so that they could have considered at the time whether the advice they were receiving from Signature might be tainted because of Signature's own financial position and difficulties in criticising the judge. The advice on the judge's position may

well have been correct, but that is not the issue. The issue is whether it was appropriate to be giving advice on the judge's financial arrangements with NatWest whilst at the same time as the solicitors were hiding from their clients the nature and extent of their own financial arrangements with NatWest. The Action Group considers that, with hindsight, the advice given to it and the claimants may have not been wholly independent or free from influence, simply because the respondents had placed themselves in the position of having similar financial links to the defendant as did the judge who was due to hear the trial a few weeks later, but had declared his circumstances.

8.4.10 Plainly the judge had shown high standards of probity in disclosing his financial arrangements, in some detail, to everyone concerned. This occasion ought to have alerted the respondents to consider their own obligations within the Code to make similar material disclosures. It is submitted that the decision not to make such disclosure clearly amounted to professional misconduct.

8.4.11 It is submitted that the question of whether a matter is material to the occurrence of conflict in the solicitor/client relationship should be judged primarily from the perspective of the client. The "reasonable and well informed observer" would view matters in that way. The judge had recognised that his family's financial arrangement with NatWest was material to the case and that it required to be disclosed. Signature recognised that he was "quite right" to have done so, but does not appear to recognise that it was "quite wrong" itself in failing to make any disclosure to the Action Group. It is not a solicitor's choice to determine what a client might or might not consider material to his or her case, simply to avoid a significant professional conduct issue.

8.4.12 What harm would have occurred had Signature been vigilant, like the judge, and notified the firm's clients of its complete financial arrangements with NatWest? There was a risk that the firm would lose fees, but that this does not prevail over the ongoing duties toward clients and a solicitor's duty to abide by the Code. The Action Group, as an educated and informed observer, is naturally suspicious that more about the respondents' and the partners' own personal financial relationships with companies in the RBS Group may well have been hidden from it or from its Members. Despite asking for full disclosure of such arrangements, the respondents have refused. The Action Group asks the SRA to seek full disclosure from Signature's partners of all personal and/or business financial or commercial arrangements with the RBS Group of companies (including RBS, NatWest, Coutts and Ulster Bank).

8.4.13 When a claimant discovered the debenture in July 2017 and notified the Action Group of the matter, the Action Group asked a separate firm of solicitors to write to Signature to complain about these issues.

8.4.14 Unfortunately, in Signature's response to these complaints, the respondents missed the importance of the duty to disclose and concentrated instead on the difference between a judge hearing a case and solicitors conducting a case. If anything, we believe the duty of a solicitor to make full disclosure to a client is wider and more onerous than that of a judge hearing a case. Signature do not seem to accept the complaints and the nature of a firm's disclosure obligations towards clients. The firm's response also does not recognise the partners' obligations to continuously review their disclosure obligations throughout the conduct of a case. The Action Group finds these matters both astonishing and worrying in the same degree.

8.5 *Misleading Information & Non-Disclosure to Corporate Claimants on 3 August 2017*

8.5.1 On 3 August 2017, Mr Julian Connerty sent an email, via his colleague, Ms Liza Edwards, to the Action Group's corporate investor claimants. The email was copied to the Action Group. Mr Connerty's email contained the following paragraphs:

> *Press and social media*
>
> *We take the opportunity to correct some untrue allegations that have been raised in certain press commentary that you may have seen. These appeared in recent weeks on online blogging and tweeting and then were picked up by some parts of the press in Scotland in particular. The allegations appear to have come from a small minority of retail members who have organised themselves separately from the communications we have been having with our client base, and whose motives appear to be to seek to undermine the settlement with RBS (for reasons unconnected with the merits of the case against the Bank) and/or extract for themselves better financial terms than are available on an equitable basis. In particular:*
>
> 1. *The fact that this firm has banked with NatWest Bank (which is part of the RBS group as have other firms involved in the Rights Issue Litigation) has not created any duty owed by this firm to RBS with respect to the litigation. It is also our position that our banking relationship with NatWest was disclosed to the individuals in the Action Group Company who initially approached this firm (albeit this does not appear to be accepted by one or more of them), and has appeared on the face of every bill delivered by us on a monthly basis since then.*

8.5.2 This statement to the corporate claimant clients raises significant concerns for the Action Group.

8.5.3 First, it is extremely unusual for a solicitor in correspondence to one group of clients, (the corporate claimants), to explicitly admonish another group of clients, namely the group of retail investor claimants which Signature described as "*a small minority of retail members*".

8.5.4 The admonition by the firm of certain of its own clients, in open correspondence, was not fair given that the "minority" clients seem to have not been put on notice of the solicitor's criticisms, in advance, nor allowed to make any comment before the letter was sent out to the far larger (by value of shares taken up) group of corporate investor clients. Whilst the respondents may have clearly been frustrated with some retail investor clients, the Action Group submits that it is unprofessional and unfair [4] for the respondents to descend into the area of criticising its own clients, in this way. This step taken by the respondents clearly amounts to an "unforced error" and constitutes professional misconduct. Despite this wholly misconceived public criticism of its own clients, the respondents continue to act for all the retail investors, including the minority criticised in the respondents' letter.

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[4] See Code of Conduct, version 18, at Chapter 1:
You must achieve these outcomes:
O(1.1) you treat your clients fairly;

8.5.5 The particular criticism of a "minority" group of clients, in part said to be because those clients had raised concerns on social media about the firm's banking relationship with NatWest (which as at the start of August 2017 the firm had still not disclosed to any of the claimants in writing or orally) was particularly unfair. Such complaints and concerns, even if expressed by in social media, were valid complaints about the respondents' relationship with NatWest that should have been dealt with by way of disclosure by the respondents, and thereafter by way of the firm's formal complaints process. Chapter 1 of the Code, explains

> *This chapter is also about ensuring that if* clients *are not happy with the service they have received they know how to make a* complaint *and that all* complaints *are dealt with promptly and fairly.*

8.5.6 In fact, the respondents have never sent any Client Care Letter to its retail investor claimant clients. The individuals complaining on social media about the firm's financial and banking relationship with NatWest were clearly using that mechanism, not to subvert the settlement or Signature, but because the firm had not provided the required information to them, at the outset of the retainer, as to how they (as clients) could make a complaint about the firm or how they could approach the Legal Services Ombudsman for assistance. To criticise them, openly, in a letter to other clients is astonishing to the Action Group because they were its members, and, it is submitted provides a clear example of professional misconduct. The respondents failed to comply with their obligations in Chapter 1 of the Code and deal properly with the concerns raised. They sought to attack their own clients who were raising the complaint about the firm's links with NatWest. That problem arose only because some of those clients had discovered the firm's financial arrangements, as the firm had kept them secret from clients during the conduct of the litigation.

8.5.7 The Action Group believes any complaints by its members, on social media, about Signature's relationship and its links with NatWest, were fair complaints. The response of a responsible firm of solicitors conducting itself properly, and taking those concerns of clients seriously, would not be to highlight the fact that the complaints arose on social media and use this to criticise its own investor clients, many of whom have lost their pensions and life's savings to the RBS Group, but would be to open a dialogue, to explain clearly, and to write acknowledging the concerns and trying to overcome those concerns.

8.5.8 Secondly, the information in the letter provided to the corporate claimants was incomplete and misleading. The statement that, "*It is also our [Signature's] position that our banking relationship with NatWest was disclosed to the individuals in the Action Group Company who initially approached this firm*", is inaccurate and is denied by the Action Group. The Action Group was never given an advance opportunity to make comments on the corporate retail update and, specifically, the statement about Signature's alleged "disclosure" (which we understand is purported to be a brief oral passing reference to NatWest during some conversation) statement, before it was sent to the Action Group's members by Signature. That was unprofessional treatment of the Action Group. The update is misleading and makes no disclosure to the corporate claimants of the following important matters:

a. that the firm entered into a debenture arrangement with NatWest in March 2016;

b. that the Action Group had complained about a conflict of interests in July 2017 in respect of these matters;

c. that the Action Group had complained about the respondent's lack of disclosure of its NatWest banking arrangements, directly to the Claimants (corporate and retail investors);

d. that the Action Group had raised concerns about material non-disclosure of the NatWest debenture;

e. that the Action Group's concern that at the time that the judge had made a disclosure of his own financial and commercial relationships with NatWest, Signature had failed to make any disclosure of the debenture or other financial links to NatWest to the claimants and to any Members of the Action Group.

8.5.9 The financial arrangements with NatWest were clearly "material" to the Action Group's affairs and the matter of the litigation, not least, for example, because a limited disclosure of a banking relationship with NatWest was referred to in an emailed update on the case which Julian Connerty had specifically referenced in the subject line as: "*RBS Rights Issue Litigation - privileged and confidential - restricted circulation*".

8.5.10 This later aspect, namely Signature's decision to make reference to its banking arrangements with NatWest (rather than making express reference to the debenture), undermines any suggestion in response to the Action Group's complaints that the firm's financial relationships with NatWest were not material to the matter and/or not material to the retainer (as per O(4.2) and IB(4.4) of the Code of Conduct) and thus did not require to be disclosed to an obviously affected client such as the Action Group. The incomplete disclosure was made in a legal update providing advice and information in relation to the claimants' case, but was only sent to a minority of the firm's clients, under a subject reference "RBS Rights Issue Litigation". That alone amounts to an acknowledgement by the respondents that the "NatWest issues" were both material to the "matter" and also material to "the retainer" (see O(4.2) and IB(4.4)). In fact, the references to the NatWest issue came in the body of Mr Connerty's email, which had the following opening line sentence which explained to the clients the nature of the passages which followed:

> *This is our latest update in respect of the settlement and the matters consequential to settlement.*

8.5.11 The email to corporate members was a further opportunity, though disclosure at that late stage would have been tardy, for Signature to make material disclosure of all its financial and commercial arrangements with the defendant Group. However, the firm's partners chose again to keep their clients, in this case corporate claimants, in the dark by making minimal reference to the issue without informing them that a material complaint about the matter had been raised by the Action Group. That decision was made, despite the Action Group having raised a specific complaint with the firm about these matters. Certainly, the minimal disclosure failed to give those that received it any comprehensive view of the extent of the firm's relationship and links to the defendant Group.

8.6 *Non-Disclosure to Retail Claimants in Update 17 August 2017*

8.6.1 On 3 August 2017, Charlotte Angwin of Signature sent an email to the Action Group, copied to Mr Huntley and Mr Connerty, and enclosed Signature's update letter to the retail claimants which was drafted so as to be sent out by the Action Group. That

letter had near identical paragraphs (though it removed the reference to "retail members") to the update sent to the corporate claimants, which had already been dispatched;

> *Press and social media*
>
> *We take the opportunity to correct some untrue allegations that have been raised in certain press commentary that you may have seen. These appeared in recent weeks on online blogging and tweeting and then were picked up by some parts of the press in Scotland in particular. The allegations appear to have come from a small minority of Claimants who would appear to be unhappy that this matter settled. In particular:*
>
> 1. *It has been alleged that we have a conflict of interests. The fact that this firm has banked with NatWest Bank (which is part of the RBS group) has not created any duty owed by Signature to RBS with respect to the litigation. We are also aware that other firms involved in the Rights Issue litigation also bank with the RBS group and unsurprisingly also had no resulting conflict. It is also this firm's position that our banking relationship with NatWest was disclosed to the Board and other representatives of the Action Group who initially approached this firm (albeit that this does not appear to be accepted by one or more of them), and has appeared on the face of every bill delivered by us on a monthly basis since then.*

8.6.2 The Action Group's Board asked a solicitor with another firm, to write to Mr Huntley and set out its concerns arising from the above-quoted paragraph. On 10 August 2017, in an email to Mr Huntley, the solicitor said:

> *I wish to make it clear that by this email the Board is not attempting to interfere with the legal advice set out in the draft letter/update but it does take issue with the presentation of facts and information set out in your draft. The particular concern raised by the Board of the Action Group relates to the following paragraph which you intend to send to both sets of Claimants (corporate and retail):*
>
> *"In particular:*
>
> 1. *The fact that this firm has banked with NatWest Bank (which is part of the RBS group as have other firms involved in the Rights Issue Litigation) has not created any duty owed by this firm to RBS with respect to the litigation. It is also our position that our banking relationship with NatWest was disclosed to the individuals in the Action Group Company who initially approached this firm (albeit this does not appear to be accepted by one or more of them), and has appeared on the face of every bill delivered by us on a monthly basis since then."*
>
> *The Action Group firmly believes that the above statement is inaccurate, and that the Claimants will be misled by it. They also believe that in raising this point now, in direct correspondence from your firm addressed to the all the Claimants, for the very first time, it is important that your disclosure of matters, including the history of disclosure and conflict issues, is complete and full. It should not be partial.*

The Action Group does not accept as an accurate statement that your firm's "banking relationship with NatWest was disclosed to individuals in the Action Group Company who initially approached [Signature] (albeit this does not appear to be accepted by one or more of them)". It is not the case that "one or more" individuals in the Action Group do not "appear" to accept that your firm "disclosed" its "banking relationship with NatWest". All the individuals in the Action Group, relevant to your paragraph, dispute in the clearest (not apparent) terms that such "disclosure" was made.

Furthermore, your letter does not state that the banking relationship was never referred to in any letters from your firm (save for the letters dealing subsequently with the Action Group's complaints), including your firm's Client Care letter addressed to the Action Group, which was never amended or updated to disclose the subsequent debenture entered into by your firm with NatWest. Additionally, your draft letter/update fails to state that at no time did Signature Litigation write to any Claimant client and disclose its banking relationship with NatWest and therefore the RBS Group. The Action Group wants the Claimants to be made fully aware of the position, especially as the Action Group feels that your firm is seeking to place a particular slant on the history of any alleged "disclosure" or, perhaps more appropriately, the lack of disclosure.

The Action Group disputes that your firm "disclosed" Signature Litigation's "banking relationship" with the RBS Group (NatWest). It certainly did not disclose to the Action Group the debenture or the conditions attached to that arrangement, which formed a key part of that "banking relationship" (at least from the Action Group's and the Claimants' perspective). The Action Group wants your firm's letter to state explicitly, to all the Claimants, that Signature Litigation did not make disclosure to the Action Group or the Claimants that the firm had entered into a debenture arrangement in March 2016 with NatWest which contained wide-ranging terms and conditions that gave (or potentially gave) wide-ranging powers to a RBS Group bank over your firm.

The letter should also state that the Action Group believes that your firm had a conflict of interests which it raised with your firm when a Claimant discovered the debenture Signature had entered into with part of the RBS Group, during the course of the litigation. The Claimants should be made aware that the Action Group has reserved its position on the conflict of interest point, as it concentrates on working with you to finalise the settlement. The conflict of interest point was raised by the Action Group in addition to your firm's failure to make material disclosure to the Claimants and the Action Group. To say nothing of the Action Group's complete set of concerns (whilst referring to your firm's replies to those concerns) in a letter/update which contains the paragraph highlighted above would mislead the Claimants that somehow the issue of your firm's banking relationship with the RBS Group was allegedly resolved or accepted by the Action Group at the outset of the retainer and that nothing further has arisen in the interim. That would not reflect the accurate history of what has occurred and the recent correspondence following discovery of the debenture.

Therefore, the Action Group considers that, to ensure that Claimants are not misled, the previous chain of email correspondence between you and I on these matters, which I attach to this email, along with the debenture its the terms and conditions, should be disclosed to all the Claimants. The Action Group is strongly against your firm disclosing only a partial picture of the

wider concerns about Signature Litigation's banking relationship, as referenced in the current draft at your numbered paragraph "1".

The directors have asked that your firm amends the draft letter/update to retail Claimants to reflect their concerns set out above. Also, in the case of the corporate Claimants, who may have already received your firm's letter/update, the directors ask that a follow-up letter is sent to them dealing with the issues which I raised for the Action Group. All the Claimants, corporate and retail, should receive the attached correspondence and documentation.

8.6.3 Instead of amending the letter and giving full and frank disclosure to the retail claimants, Graham Huntley responded on 11 August 2017, stating *inter alia*:

We have discussed your email with Kathryn [Revitt]. In the present circumstances neither we nor the Action Group company should be seen to be doing anything to delay the despatch of reports from the lawyers to the Claimants, whether they are corporate or retail Claimants. In that respect you appear to continue to overlook that the Action Group is neither a Claimant, nor a continuing agent, nor a party in a position to give any instructions to the agent or to the legal team. We continue to make efforts to seek your opinions, as well as information that is required, notwithstanding that those opinions are not to be allowed, any more than the opinions of any one Claimant or group of them, to undermine whether by delay or otherwise the efforts being made by the legal team on behalf of the Claimants as a whole.

You are aware from our previous communications that we disagree with the analysis and thinking that has led to the views and conclusions expressed in your email. Nonetheless, given the priority of communicating with the retail Claimants as aforesaid, and so as to avoid putting the Action Group company in a position where it feels that it must continue debating its views and opinions with us in relation to the paragraph of the draft to which you have drawn attention, we have agreed to remove that paragraph. This will also avoid the company going down the path that we had understood you properly wished to avoid; namely a public and damaging fight with the Claimants' lawyers.

We therefore enclose a further and final version of the letter with the paragraph removed, and signed by us for immediate despatch to the retail Claimants.

8.6.4 The amended letter which Signature prepared for the retail claimants, excised any references to the firm's banking or financial arrangements with NatWest. Rather than deal with the issues raised in the Action Group's correspondence Signature took the decision to continue to keep the retail claimants in the dark about their links to NatWest. The Action Group is not aware that the firm has ever written since to the retail claimants and explained its banking arrangements. The tone of the response from Mr Huntley, was terse, dismissive and condescending. More concerning was the implicit and wholly unnecessary threat referenced by Mr Huntley, namely the possibility of a "damaging fight with the Claimants' lawyers [Signature]". The Action Group does not feel that Signature took seriously the conduct issues raised with them, in the email of 10 August 2017. That proper concern should have been treated as a complaint in relation to the failure to include material information in a letter to the retail claimants. The response, to remove from the letter all references to the material issue of NatWest was inadequate and less than candid.

9. *Signature's attempt to amend the conditional fee agreement*

9.1 On 7 July 2015, Mr Huntley sent the Action Group's director, Mrs Lorena Aguirre ("Mrs Aguirre)") and others, Signature's Terms of Business, its Litigation Appendix and a draft of a conditional fee agreement ("CFA1") in the same terms as subsequently agreed. Mrs Aguirre duly signed that version of CFA1 and dated it 7 June 2015.

9.2 CFA1 was never sent to Signature's retail claimant clients, by the firm, who have never been aware of the firm's charging structure or fee arrangements, as the firm never engaged or corresponded with them directly. The Action Group was not aware that this might, of itself, be a breach of the Code of Conduct in failing to inform all the firm's clients of costs in advance and out the outset. Chapter 1 of the SRA Code of Conduct states:

> *...This includes providing clients with the information they need to make informed decisions about the services they need, how these will be delivered and how much they will cost.*

9.3 Outcome O(1.13) states:

> *O(1.13) clients receive the best possible information, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of their matter;*

9.4 Outcome O(1.14) states:

> *O(1.14) clients are informed of their right to challenge or complain about your bill and the circumstances in which they may be liable to pay interest on an unpaid bill;*

9.5 In fact, Signature has never brought to the attention of its retail claimant clients information on how, and to whom, they can make a complaint about the firm, especially if they have a complaint which relates to the firm's costs for example. They have never informed the retail claimant clients of the firm of their right to challenge or complain about their bills, or even that they have a right to complaint to the SRA or Legal Ombudsman or challenge the firm's bills via the Courts. The firm's legal costs will be deducted directly from the claimant clients' awards of damages and this will be done by Signature, along with a multiple (which can be triple the level of the costs) to be paid to litigation funders who have successfully funded Signature's costs on a drawdown basis.

9.6 Signature now say that CFA1 was not "fully executed" by both parties until 13 July 2015. It therefore appears that Signature is instead asserting that its retainers cannot take effect until "fully executed" by both parties. As set out below, this is relevant as to whether or not CFA2 was ever agreed with the Action Group.

9.7 There is clearly no executed retainer between Signature and its retail claimant clients. It can point to no agreement between it and a retail client to its costs, as the firm never communicated its costs directly to the retail claimants.

9.8 The key terms of CFA1 are:-

9.8.1 the Action Group would be liable to pay 65% of the Standard Fee in any event but that the remaining 35% would only be chargeable in the event that a "Success" is achieved;

9.8.2 if a "Success" is achieved, the Action Group would be liable to pay an additional amount equivalent to 35% of the Standard Fee;

9.8.3 "Success" was defined as:

> *If and when the Claim is resolved in your favour, or either by agreement or following a trial or other final hearing, which in this case shall mean that the other side pays you equal to or* ***greater than £500m*** *in that circumstances, you will be liable to pay the 65% of the Standard Fee, the Additional Portion of the Standard Fee and the Success Fee attributable to the whole of the dispute" [emphasis added].*

9.9 In January 2016, Charles Gordon (previously a partner at DLA and before that at Manches Solicitors) was appointed as the Action Group's Legal Director (though not a statutory director of the company) and the person responsible for liaising with Signature and Counsel. Mr Gordon acted as a consultant. Graham Huntley, of Signature, was aware that Mr Gordon was working as a consultant and that he could not legally bind the Action Group without consent of the Action Group's board[5].

9.10 On 22 April 2016, Signature signed a CFA with counsel on the Action Group's behalf, pursuant to which counsel would be entitled to full fees on a settlement of £125m and a 30% success fee if a settlement above £200m was achieved.

9.11 As explained below, Mr Huntley would later assert that "in the process" of agreeing counsels' CFA, it was agreed with John Campbell (Mr Gordon's predecessor) that Signature's CFA1 should be amended to align it with the lower thresholds for success in counsels' CFA. Mr Campbell rejects that account. The Action Group has yet to see any correspondence during this period in which an amendment to Signature's CFA1, supposedly to align it with counsel's CFA, was either proposed, discussed or agreed, as to which:

9.11.1 Signature's 29 January 2016 Commercial Terms analysis of how counsel's fees would work on a settlement of £100m made no mention of Signature earning any success fee at that stage;

9.11.2 Mr Huntley's email to Mr Gordon of 30 March 2016 reconfirmed Signature's success fee as being triggered at £500m;

9.11.3 Mr Gordon produced 2 waterfall spreadsheets for the board in April and March 2016, neither of which referred to Signature receiving any enhanced fee for a settlement below £500m.

9.12 In mid 2016, the Action Group was having difficulty making payments (Signature's bills were not being paid) because the litigation funder, Hunnewell Partners (BVI) Limited, was requiring a change in governance (new independent members of the

[5] There were only 2 members of the board, namely: Mrs Lorena Aguirre and Mr Nigel Masters.

board). Also at this time, certain of the retail claimants in Scotland were making allegations against Signature and because of this, Mr Huntley was pressing for a meeting with them to resolve these matters. On 17 May 2016, Mr Huntley sought to get Mr Gordon to sign a consent order allowing Signature to come off the record in the Rights Issues Litigation if such matters were not resolved. Mr Gordon declined to sign the draft consent order. He clearly did not have power or authority to sign such a consent order, even if he had signed it.

9.13 By the end of May 2016, pleadings in the Rights Issue Litigation had closed and witness statements had been served. The next planned major event was a 3 day case management conference scheduled to take place between 10-15 June 2016.

9.14 On 3 June 2016, Mr Huntley wrote to Mr Gordon complaining about Signature's unpaid fees and a failure to convene his requested meeting with the retail claimants, but Mr Huntley said that:

> *...it probably makes sense if we leave matters on the basis that the need for the meeting on these terms remains urgent and indeed critical to our continuing retainer*".

9.15 Mr Huntley did not refer any "new" or "enhanced" retainer.

9.16 On the same day, 3 June 2016, Mr Huntley sent an email to Mr Campbell about Signature's relationship with the Action Group, its members and its fees etc. This email was sent in response to Mr Campbell's email of the previous day informing Mr Huntley that he had returned to work part-time for the Action Group alongside Mr Gordon. In this email, Mr Huntley again made no mention of the need to enter into a new retainer.

9.17 At 18.30 on Friday, 10 June 2016, the first day of the CMC, Mr Huntley emailed Mr Gordon (but not Mr Campbell or Mrs Aguirre) a new draft engagement letter, ("CFA2") which, like CFA1 was addressed to Mrs Aguirre (though not ever sent to her), but unlike the draft of CFA1, was sent pre-signed by Mr Huntley as a *fait accompli*. Also attached to this email was a word version showing the tracked changes from CFA1.

9.18 The key differences between CFA2 and CFA1 are as follows:

9.18.1 "Our Client": 1.1 - recognised Mr Gordon as a consultant and not a board member, albeit he was to be the person from whom day-to-day instructions would be received;

9.18.2 "Conditional Fee Arrangement": 7.2 – Rather than be liable for 65% of the Standard Rates, CFA2 now stated:

> *You are liable for work undertaken at **100%** of the Standard Rates. However, during the claim, to assist with cash flow we agree that you be invoiced at 65% of the Standard Rates.* (Our underlining)

9.18.3 The remaining 35% would be invoiced at the conclusion of the claim. However, inconsistently, the clause then said that this 35% would not be invoiced if a Standard Rates Success was not achieved, being a settlement of between £125m and £300m (see 7.5(a)). Note: in his covering email of 10 June 2016, Mr Huntley's explanation for this was scant; he simply said:

> *We continue to adopt the 65 per cent of standard rates*;

9.18.4 "Conditional Fee Arrangement": 7.5(b) – the Success fee was now to be triggered, not at a settlement of £500m as had been the case in CFA1, but at £125m to £300m for payment of the additional 35% in standard fees, and £300m-£500m for the additional 30% Success Fee. Note again, in his covering email of 10 June 2016, mr Huntley again does not draw much attention to what was a very significant change from CFA1, or why this would in be the Action Group's (or indeed the RBS Claimants') interests, he merely says it was to align with counsels' CFA and the waterfall and that:

> *The discount is earned on a smooth line basis from £125m…*[and[*..The uplift is earned on a similar smooth line from £300m to £500m of recoveries.*

9.19 Signature asserts in correspondence that CFA1 was "*superseded by an amended engagement letter and CFA dated 10 June 2016*", amendments which the firm claims were "*required*" to bring the retainer in line with the counsels' CFA. Mr Huntley does not explain why this was "required", why it needed to be "brought in line" or by whom, but says the amendments were explained and agreed with the Action Group, "largely" though Mr Gordon.

9.20 The amendments were complicated and were never explained at all or in writing to the retail, and as far as we are aware the corporate, claimants in the RBS Rights Issue Litigation. The consequence was to take money out of the pockets of the claimant clients, for the sole benefit for Signature Litigation and its partners.

9.21 The Action Group denies that CFA2 was ever agreed. Unlike CFA1, which Mrs Aguirre signed, CFA2 is only signed by Mr Huntley. It is not signed by any person associated with the Action Group, and is certainly not signed by any claimant client of the Signature. Both Mr Gordon and Mr Campbell have said that they do not recall CFA2 ever being agreed and that they do not believe it was ever agreed. Neither of the Action Group's directors confirmed to Signature that CFA2 was agreed.

9.22 However, Signature assert (to their own advantage over the clients) that this unilateral change to CFA2 is sufficient to allow them potentially millions of pounds in additional costs to be charged against the clients.

9.23 It seems that the firm has had little, if any regard, to the need for clear and written costs information to be provided to clients at the outset, but also the obligations not to try and take unfair advantage of clients:

> *You must achieve these outcomes:*
>
> *O(1.1) you treat your clients fairly;*
>
> *O(1.2) you provide services to your clients in a manner which protects their interests in their matter, subject to the proper administration of justice;*
>
> *...*
>
> *O(1.6) you only enter into fee agreements with your clients that are legal, and which you consider are suitable for the client's needs and take account of the client's best interests;*

9.24 The contemporaneous correspondence was as follows:

9.24.1 The wording of his email to Mr Gordon of 10 June 2016 serving CFA2 is oddly self-conscious and suggests Mr Huntley believed that the amended CFA2 still required agreement and signature. He began:

> *An outstanding issue has been recording the agreement that I believe we have reached, as is reflected in the waterfall, for the Signature CFA to be aligned with the basic aspects of the Counsels' CFA...I would like to think that this can be confirmed quickly. If as I have understood (but I am not now sure) the waterfall is agreed by the board, then it must be possible for this document which reflects what is in it to be quickly signed by both of us – grateful if you could confirm.*" (Our underlining).

9.24.2 Mr Gordon responded on 10 June 2016 saying he would discuss it once he had looked at it "next week" to which Mr Huntley responded:

> *Of course, but you'll be surprised that we don't see there is really anything still to discuss on the much trawled over Signature terms.*

9.24.3 At 20:11 on 15 June 2016, the penultimate day of the CMC, Mr Huntley informed Mr Gordon and Mr Doug Stewart, also from the Action Group, that RBS had proposed a mediation process in July 2016 and that this had been in discussion for some time. However, the Action Group had not been involved at the bank's request because of concerns about the management of confidentiality. This was the first time that anyone at the Action Group had learned that RBS was willing to mediate. This offered up the possibility of a potential settlement. Surprisingly, Mr Huntley does not say when he first learned of this possible mediation. The Action Group queries whether Mr Huntley and Signature realised at this time that if a settlement was reached in excess of £100m but less than £500m, counsel would be rewarded but not Signature and, therefore, that was why he decided to immediately and unilaterally amend the CFA and send it as a *fait accompli* on 10 June.

9.24.4 If, as we suspect, this was the case, then Mr Huntley and Signature's conduct, even if as we assert CFA2 is not valid (though Signature still assert it is valid) this was a very serious breach of the firm's and Mr Huntley's obligations as per Outcomes O(1.1), O(1.2), and O(1.6) to name but a few. The conduct also likely brings the solicitors' profession into disrepute, as the firm's actions were to take advantage of its clients, many of whom were vulnerable retail investors ie pensioners or estate beneficiaries of persons deceased who had invested in the RBS Rights Issue.

9.24.5 On 17 June 2016, Mr Huntley again raised the prospect of Signature coming off the record if he could not meet with the retail claimants, but did not refer to the new agreement. The reason is unclear.

9.24.6 On 22 June 2016, Mr Huntley emailed Mr Gordon and the board seeking to:

> *resolve the formalisation of the amended Signature retainer… As I said before, this relates to an agreement in principle what we reached with John [Campbell] last year.*

9.24.7 Mr Gordon then forwarded Mr Huntley's email to the board saying:

> *I am reluctant to agree any change to the CFA uplift at this stage.*

9.24.8 On 30 June 2016, Mr Gordon emailed Mr Huntley saying that Mr Campbell wanted to take carriage of the amended Signature CFA for the board, and that he would then discuss it with Mr Huntley and make a recommendation. Mr Huntley replied saying he did not want to go over previous exchanges and that the CFA was amended to reflect only two points, one of which being what he somewhat disingenuously describes as the "simple uplift" on the same thresholds as counsel.

9.24.9 On 1 July 2016, Mr Gordon confirmed to Mr Campbell in response to Huntley's 30 June email, "*my feeling is that Signature should be brought closer in line with counsel*". In response Campbell replied to Mr Huntley and Mr Gordon saying that he would deal with the issues as soon as he could.

9.24.10 On 11 July 2016, Mr Huntley emailed Messrs Campbell and Gordon again saying that there is:

> *still no written confirmation by way of signature to the amended engagement letter..All in all it is not necessary for me to keep chasing for the executed copy, on the basis… that the continuing instructions constitute confirmation of our engagement.*

9.24.11 That is legally inept, at best. Simply because instructions had not been withdrawn from Signature cannot amount to a new agreement for an enhanced CFA. If that is what he had believed, why had he previously been chasing for signature by the Action Group? Mr Campbell has confirmed that he does not have any response to this email in his records.

9.24.12 In 12 July 2016, Mrs Aguirre emailed Mr Campbell saying "*please ensure that anything under 750 million by way of settlement is only nominally rewarded in Graham's CFA.*" Mr Campbell possesses no further documents subsequent to this email, as his position had by then been terminated, but neither he nor Mrs Aguirre had neither agreed to the amendment to the CFA, nor were they positively minded to do so.

9.25 It will be a matter for a Court to determine if CFA2 was agreed and is enforceable. However, regardless of that legal question, the Action Group considers that Signature has acted in breach of the Code of Conduct by:

(i) unilaterally asserting that CFA1 could not continue unless it was aligned with counsels' CFA;
(ii) unilaterally asserting that CFA1 had to be amended with lower success thresholds (to the benefit of Signature);
(iii) asserting to Mr Gordon that these amendments had been agreed with John Campbell;
(iv) failing to properly explain the changes in CFA2 to the Action Group,
(v) failing to explain anything on costs and, importantly, the amendments in writing directly to the firm's claimant clients;
(vi) instead referring to these as a "simple uplift" or an "uplift earned on a similar smooth line";
(vii) failing to explain why these changes were in the client's best interests, rather than the firm's and partners' personal interests, and/or to get express consent from the board and/or the retail claimants to an amendment the CFA which was not in the Action Group's and/or the claimants clients' best interests;

(viii) sending CFA2 to Mr Gordon pre-signed by Signature and thus as a proposed *fait accompli*;
(ix) refusing to discuss its amended terms;
(x) failing to secure the express consent of the board and/or any retail claimants, and instead unilaterally declaring that CFA2 would be in force if the Action Group continued to instruct Signature despite the Action Group being entitled to continue instructing Signature under CFA1;
(xi) subsequently amending the Waterfall spreadsheet to include Signature's success fee under CFA2 without that having been agreed by the Action Group's board, or any retail claimants, and without clearly notifying the Action Group in writing, or at all that this is what the partners of Signature had done.

9.26 The above matters are in breach of the Code in at least the following ways:

9.26.1 The conduct breaches Mandatory Principles 2 and 4, the duties to "act with integrity" and to "act in the best interests of each client";

9.26.2 breach of the following Mandatory Outcomes: O(1.1), failing to treat its client fairly; O(1.2), failing to provide services to its client in a manner which protects their interests; and O(1.6), entering into a retainer (CFA2) which was illegal and/or which was not in its client's best interests; and

9.26.3 breach of IB(1.14 and IB(1.17), by failing to properly explain CFA2 and provide all information relevant to CFA2 (i.e. why it was required to be in sync with Counsel's CFA);

10. Own Interests Conflict in relation to dispute between the Action Group and Manx

10.1 As stated above, following the events of 16 March 2017, Signature took instructions from Manx in relation to the Rights Issue Litigation instead of from the Action Group.

10.2 In September 2017, in light of the severely deteriorated relationship with Signature, the Action Group sought to appoint new solicitors, Rosenblatt Solicitors, to act in relation to the litigation. Manx applied to the Chancery Division of the High Court for an injunction, amongst other things, to restrain the Action Group from appointing or purporting to appoint new solicitors to act in relation to the litigation and protect the best interests of the claimants. The Action Group subsequently gave undertakings to the Court in order to avoid the need for a contest and a Court hearing. Signature acted on behalf of Manx – and continues so to act for Manx – in relation to that dispute.

10.3 The Action Group has issued a claim in the Senior Court Costs Office seeking an assessment of Signature's costs pursuant to Part III of the Solicitors Act 1974 and seeking an enquiry as to the validity of Signature's retainers. Signature and Manx dispute the Action Group's entitlement to bring such a claim.

10.4 As at the date of this letter, there are therefore are two sets of proceedings afoot, namely:

i. the "Cost Proceedings" between the Action Group and Signature; and
ii. the "Injunction Proceedings" between Manx and the Action Group.

The Costs Proceedings

10.5 In the event that the Action Group is successful in the Costs Proceedings claim, that will yield a benefit for the RBS Claimants. This is because the amount of legal costs which will ultimately be paid by them from the settlement proceeds from the RBS Rights Issue Litigation will be less than it otherwise might have been. That outcome will be to the detriment of Signature in that it will be paid less than might otherwise have been the case. Manx purports to be pursuing the dispute with the Action Group on behalf of the RBS Claimants, acting as their "agent". There therefore exists a clear and plain conflict of interest between Signature's position and the position of the RBS Claimants (acting, as they must for the present, through Manx).

10.6 As stated above, Chapter 3 of the Code contains an unequivocal prohibition on a solicitor acting if there is an own interest conflict or a significant risk of an own interest conflict.

10.7 Signature refuses to cease acting for Manx.

Injunction Proceedings

10.8 In respect of the Injunction Proceedings, Signature faced a clear conflict between two clients. Initially, Manx had instructed another firm of solicitors, K&L Gates, to act for it on the injunction application against the Action Group. However, Manx subsequently instructed Signature (the firm accepted the instructions) to settle and issue the proceedings against the Action Group (the firm's client) and represent Manx on that application.

10.9 There is no dispute that the Action Group was a client of Signature.

10.10 It may be useful to consider some important correspondence which the Action Group received from Signature in relation to the Manx-Action Group agreement of 16 March 2017, which forms basis of the dispute in the Injunction Proceedings that commenced later in 2017.

10.11 Signature were acting for the Action Group as at 16 March 2017. As far as the Action Group is aware, Signature had no retainer, let alone a direct retainer, with any other person or company linked to the RBS Rights Issue Litigation who could have asked it to provide legal advice on the terms of an agreement between Manx and Action Group which was settled on 16 March 2017.

10.12 On 15 March 2017, at 11:03, Graham Huntley of Signature emailed the directors of the Action Group, Nigel Masters and Lorena Aguirre, and offered the following advice to the Action Group on the proposed Manx-Action Group agreement:

> *This can be achieved through a simple and straightforward delegation by the Action Group to the Hemmings group [of which Manx was a part] with whom the Action Group has more than enough knowledge and understanding to be satisfied that in and of itself Hemmings as a Claimant will only be interested in pursuing the claim through for the benefit of any and all Claimants who wish to stand away from the bank's offer and their acceptance and move on to trial."*

10.13 Mr Huntely's email continued by outlining to his client, the Action Group what steps needed to be taken by the Action Group, with Signature's assistance:

> *Rather, we simply wished to pass on to you what the Hemmings group are proposing and urgently to discuss the ways of achieving it* ***from a legal standpoint which of course makes perfect sense for us to address with you****. In that respect all that would be required would be a straightforward delegation, with the Action Group retaining its responsibility to act as agent to decide on behalf of the retail Claimants, and manage their interests, with the benefit of information which the legal team would make available to the Action Group in the same way as now. However, it would be for the Hemmings group to give instructions to the legal team which we are satisfied would, if this arrangement was perfected quickly, enable the team to focus on the trial and not be distracted (to say the least) by the ongoing very poor, difficult and unconstructive interaction that exists* ***between the Action Group and its legal advisers****. (Our bold)*

10.14 Mr Huntley's advice to the Action Group continued, by advising the Board the course of action he proposed would be in the best interests of the Action Group's members:

> *It should be apparent to the board that this proposal is in the best interests of its members. Resisting it is clearly not. Equally, it should be acted upon quickly...*

10.15 In the early hours of the morning of 16 March 2017, at 12:40 am, Mr Rory Spillman of Signature emailed the directors of the Action Group and sent them with a draft of the Manx agreement letter. At 9:28 am the same morning, Mr Spillman sent to the Action Group a further draft of the agreement letter, with amendments which Signature's legal team had made for the Action Group. The amendments were tracked in Microsoft Word. Mr Spillman wrote to the Action Group, stating:

> *Please find attached a further draft of the proposal letter showing a number of amendments we have made overnight. These can of course be discussed line-by-line at our meeting at 11:00am this morning.*

The metadata properties of the Microsoft Word agreement indicate that the "author" of the Manx-Action Group terms was "claire.clark", who is described on Signature's website as part of the firm's "Core Team".

10.16 Signature clearly could not have been acting for Manx in the preparation of and drafting of the Manx-Action Group agreement. The firm certainly did not state to its client, the Action Group, that it represented Manx of the Hemmings Group in any way, on or around 16 March 2017. The Action Group understood that Manx was separately represented by K&L Gates, in relation to the terms of the Manx-Action Group agreement reached on 16 March 2017.

However, we ask the SRA to order disclosure of all the correspondence (including emails) between the partners and associates of Signature Litigation and Kathryn Revitt of Manx, and any other parsons in the Manx or Hemmings group of companies, prior to the agreement being present to the Action Group (the client of Signature), in order to dispel a concern that Signature may have also been secretly advising or taking instructions from Manx, whilst also representing the Action Group on the agreement.

10.17 Whatever the position between Signature and Manx, on or around 16 March 2017, there is no doubt that the firm was acting for the Action Group, and certainly gave the Action Group it was representing and acting for it in the Manx-Action Group

agreement negotiations/drafting. If this was not the case, on what basis (if Signature was not acting for any of the parties in the agreement) did the firm's associate solicitor, Mr Spillman, deliver to the Action Group on the morning the agreement was to be signed an amended copy of the agreement, with tracked changes, referring to amendments made by Signature overnight. Also, if the Action Group was not the firm's client, why would Signature be discussing the amendments with the directors "line-by-line" at a meeting schedule at their offices at 11:00 am the same morning, 16 March 2017?

10.18 A meeting to negotiate and agree the terms of the Manx-Action Group agreement took place at Signature's offices on 16 March 2017, where the Action Group was represented by signature's partners, Julian Connerty and Graham Huntley (who joined by telephone), and the firm's associate, Rory Spillman. Manx was represented by Kathryn Revitt and her company's lawyer, from K&L Gates, on the telephone.

10.19 Concerned at Signature's previous failure to accurately record what happened at meetings involving their client, the Action Group, the Action Group instructed a human rights barrister, Mr Bunting of Counsel from Doughty Street Chambers, to take an independent note of the meeting. He stated at the outset he was not there to advise or represent the Action Group on the agreement. Mr Connerty, Mr Spillman and Mr Huntley gave advice to the Action Group's board members, Nigel Masters and Lorena Aguirre, who were also present at the meeting. No claimant, outside the Hemmings Group (represented by K&L Gates and Kathryn Revitt) was present, and nor did any claimant intervene in the meeting (in person or by telephone) to give instructions to Signature.

10.20 Therefore, given Signature's role in negotiating, drafting and giving advice to the Action Group on the Manx-Action Group agreement of 16 March 2017, we ask how it was at all possible, as a matter of professional conduct, for the firm to accept instructions from Manx, against its client, the Action Group, on a injunction application in the autumn of 2017, relating to a dispute over the terms of the Manx-Action Group agreement of 16 March 2017?

10.21 Any firm with a proper understanding of its professional conduct obligations would not have accepted instructions in a case where there was clearly a conflict of interests, as a matter of fact, and where the firm was at risk of there being a significant conflict of interests between two clients.

10.22 What is more, in strongly representing Manx before the High Court in the injunctive proceedings, Signature prepared witness statements which including client confidential information about matters relating to its other client, the Action Group, in order to benefit Manx's case. It also disparaged and traduced its client, the Action Group, in Court documents in order to advance the case of its other client, Manx.

10.23 This matter further highlights Signature's flagrant disregard for the Code of Conduct, even when the conflict of interests was pointed out to the firm by the Action Group's solicitors, Rosenblatt Solicitors, in correspondence Signature continued to disregard its professional conduct obligations and cease acting. The firm chose to act in a case where it did not need to act, not least as K&L Gates had drafted the initial Letter of Claim against the Action Group threatening the injunction. However, at some point Signature agreed to act for Manx and use information it had received during its conduct of the RBS Rights Issue Litigation, from the Action Group, to advance Manx's injunctive action by heavily criticising the Action Group's conduct of the same litigation.

10.24 We are not aware of any situation where a firm that had advised on or re-drafted an agreement for one party, could subsequently in a dispute on that same agreement, turn around and then act for the other party to the agreement when it seeks to injunct the firm's other client. It is the most astonishing example of a conflict of interests and one that requires full and deep examination by the SRA.

Conclusion

11.1 The Action Group considers that the matters raised in this letter, which sets out a long list of significant concerns about the professional conduct of the Signature and its partners, are serious breaches of the Code by a high-profile city firm and its principles.

11.2 The RBS Rights Issue Litigation is and was extremely high profile litigation. It ranks as high as any claim, in financial value, as any in recent times. It was litigation brought on senior counsel's advice against a bank which was partly owned by the British taxpayer. The litigation attracted significant press and media interest. For the private retail investors, the litigation was an attempt for many to recover some of their lost personal investments where those investments came from life savings or personal pension plans. The claim related to an allegation of false information provided by a large, previously trusted, British bank.

11.3 There can be no doubt of the public interest in the conduct of the solicitors dealing with these matters, as they touch upon the welfare and protection of the public and a large group of many thousands of claimants and the Action Group itself. The solicitors involved, Signature, had sufficient resources, as they were receiving millions of pounds in legal fees, from the combined resources of Action Group and litigation funders, to obtain all appropriate advice and act with extreme caution at the time when the firm took on its instructions and entered into the debenture. The evidence of the Signature and its partners' failures amounts to professional misconduct.

11.4 There is no doubt that immediate steps must be taken to protect the public in relation to this firm. An immediate on-site audit should be conducted into the firm's activities and practices, and lack of protections in place to prevent matters such as conflicts of interests resulting in breaches of the Code.

11.5 It is respectfully submitted that the only appropriate course in a complaint of this nature, and particularly given its seriousness, is to refer the complaint to the Solicitors Disciplinary Tribunal ("SDT") for appropriate prosecution as that is in the public interest. The Action Group is confident that the SDT will certify that there is a case to answer in relation to this complaint.

11.6 In our view, only the SDT has the appropriate powers of sanction in a case of this seriousness, powers which are not available to the SRA, in reference to the conduct of the individual solicitors who acted in this matter despite their continuing conflicts of interests, the firm's material non-disclosure to clients, and its unfair self-interested dealings on client funding arrangements (costs).

11.7 Swift action is also required to protect the reputation of the profession and to protect clients, not least as Signature continues to act for investor-claimants in the RBS Rights Issue, and is receiving monies on their behalf. The firm also asserts its right to claim significant monies from them under CFA2, which has all the hallmarks of being an agreement set up only to benefit the partners of the firm and causes us deep

concern that the claimants and the Action Group are being ripped-off by their own solicitors. Signature continues to act also in at least three cases, those which we have highlighted, namely: (i) the RBS Rights Issue Litigation, (ii) the costs proceedings and (iii) the Manx-Action Groups dispute, where it has had and continues to have clear conflicts of interests.

11.8 Pending prosecution of the firm and its partners, through the SDT, Signature should be directed to cease acting immediately in the three matters highlighted above, as to do so continues its serious breaches of the Code and compounds its contempt for and cavalier approach to the rules which govern the solicitors' profession.

11.9 Furthermore, as the firm has not been transparent with the claimant clients it acts for, it should be required to send a copy of this complaint to all the claimants so that they are informed of the issues and concerns we have been raising with the firm and notify them that the matter has been passed to the SRA for investigation. It would be an injustice and an abrogation of the solicitor's responsibilities to the claimant clients if the firm was allowed to continue keeping them in the dark, as it has failed to advise any of its clients about the breaches which we have indentified and which might give raise to claims by their clients (that in itself may be a further breach of the Code by the firm).

11.10 We ask that you investigate the matters referred to in this complaint, as a matter of urgency, and we look forward to a reply at an early date.

Yours faithfully

RBS Shareholders Action Group Limited

RBoS Shareholders Action Group Ltd

Encls.