

Michael Nouril

Solicitor

166029

Agreement Date: 24 February 2022

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 24 February 2022

Published date: 7 March 2022

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Mishcon de Reya LLP

Address(es): Africa House, 70 Kingsway, London, WC2B 6AH

Firm ID: 624547

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Mr Michael Nouril, currently a non -practising solicitor and former member of Mishcon De Reya LLP, a licensed body authorised and regulated by the Solicitors Regulation Authority (SRA), agrees to the following outcome to the investigation of his conduct specified below:

- a. He will pay a financial penalty in the sum of £17,500, pursuant to Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedure Rules.
- b. the publication of this agreement, pursuant to Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules.
- c. he will pay costs of the investigation of £3,500, pursuant to Rule 10.1 and Schedule 1 of the SRA Regulatory and Disciplinary Procedure Rules.

Reasons/basis

2. Summary of Facts



2.1 Between September 2015 and April 2017, Mr Nouril, a manager and partner of Mishcon De Reya LLP (the firm) and solicitor with responsibility for the relevant matters, carried out work for two individual clients, and corporate vehicles connected with the same two individual clients. This work related to asset planning for one of the individuals, and the initial stages of the proposed acquisition of two separate entities (and the onward sale of one of them).

2.2 In relation to the above clients and matters:

- a. some documents, but not a full set of customer due diligence (CDD) documents were obtained in relation to one of the corporate vehicles involved in one of the proposed acquisitions;
- b. both proposed acquisitions presented a 'higher risk of money laundering or terrorist financing' under the relevant money laundering legislation in force at the time, because they involved companies in offshore (and therefore potentially higher-risk) jurisdictions, therefore requiring enhanced customer due diligence (EDD) and ongoing monitoring which was not applied;
- c. one payment was made into and three payments were made out of the firm's client account between 22 July and 28 July 2016, which did not relate to an underlying legal transaction in relation to which Mr Nouril and the firm were instructed, and therefore banking facilities were incorrectly provided through the firm's client account;
- d. funds belonging to one corporate vehicle were incorrectly transferred to the client ledger for the other corporate vehicle, and used to discharge the firm's fees and disbursements on the matter relating to the latter entity, when each client entity's monies should only be used for that client entity's matter irrespective of whether the entities are connected or in common ownership; and
- e. no bill of costs, or other written notification of the costs incurred, were sent to the relevant entities before two invoices were raised and paid out of monies held in client account.

2.3 During an external investigation commissioned by the firm, it was identified that Mr Nouril was responsible for the relationship with the above clients. Further, it was identified that Mr Nouril, who was instructed in relation to most of the above matters, had not received mandatory training as required by anti-money laundering regulations and the SRA Accounts Rules (in force at that time). The firm has stated that such training would



usually have been provided but was not, owing to a personnel absence. However, Mr Nouril regrets his lack of understanding at the time and accepts those identified gaps in his knowledge were ultimately his responsibility to address.

2.4 By way of explanation, Mr Nouril states, and the SRA accepts, that:

- a. He has fully cooperated with the SRA's investigation.
- b. He has admitted the breaches.
- c. He has shown genuine insight and regret in respect of his shortcomings and management of risk and has undertaken comprehensive training with respect to anti-money laundering and the SRA Accounts Rules.

3. Admissions

3.1 Mr Nouril admits, and the SRA accepts, the following breaches:

- a. failing to secure adequate CDD at the material times in relation to the matters listed above, pursuant to Regulation 7 of the Money Laundering Regulations 2007;
- b. failing to ensure that the required adequate EDD was conducted, or adequately apply enhanced ongoing monitoring in respect of one client and two matters related to that client, pursuant to Regulations 8 and 14(1)(b) of the Money Laundering Regulations 2007;
- c. permitting four payments (exceeding £1.7m in aggregate) in and out of the firm's client account in 2016, for items that constituted permitting the firm's client account to be used as a banking facility in breach of Rule 14.5 of the SRA Accounts Rules 2011;
- d. incorrectly authorising the transfer of funds belonging to one entity to the client ledger for another entity (its 100% owned subsidiary), which was then used to discharge the firm's fees and disbursements in relation to the latter entity, in breach of Rules 1.2(c), 6.1, 20.1(a), 20.1(c), 20.1(d) and 29.2(b) of the SRA Accounts Rules 2011; and
- e. failing to send a bill of costs, or other written notification of the costs incurred, to relevant entities before two invoices were raised and paid out of monies held in client account, in breach of Rules 6.1 and 17.2 of the SRA Accounts Rules 2011. And, therefore, he has failed to:
- f. in respect of the matters set out at paragraphs 3.1a to 3.1e inclusive above, behave in a way that maintains the trust the public places in him as a manager and in the provision of



legal services, in breach of Principle 6 of the SRA Principles 2011 (the SRA Principles in force at the time of the misconduct);

- g. in respect of the matters set out at paragraphs 3.1a to 3.1e inclusive above, carry out his role in the business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SRA Principles 2011; and
- h. in respect of the matters set out at paragraphs 3.1a and 3.1b above, have sufficient regard to his obligations under anti-money laundering legislation and therefore failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011.

4. Why the agreed outcome is appropriate:

4.1 The SRA considers, and Mr Nouril accepts, that a financial penalty is appropriate following reference to the SRA Enforcement Strategy because:

- a. there were serious breaches of the relevant money laundering regulations and the SRA's rules and Mr Nouril should have complied with the same.
- b. the conduct had the potential to cause significant harm by facilitating transactions involving entities in offshore jurisdictions (such as British Virgin Islands), that were considered 'higher risk' jurisdictions for facilitation of money laundering under the relevant anti-money laundering legislation in force at the time, and because Mr Nouril was responsible for the overall conduct.
- c. the agreed outcome is a proportionate outcome in the public interest because the issuing of such a sanction is necessary to maintain standards by highlighting the risks arising from the acts and omissions in question and deterring such repetition.
- d. there has been no evidence of lasting harm to consumers or third parties being caused by the admitted breaches, based on current knowledge.
- e. there is a low risk of repetition, particularly in light of the degree of insight and remorse shown and the application of himself to training in the relevant areas.
- f. Mr Nouril has assisted the SRA throughout the investigation, admitted breaches and undertaken comprehensive training with respect to anti-money laundering and the SRA Accounts Rules.

4.2 Rule 4.1 of the SRA Regulatory and Disciplinary Procedure Rules states that a financial penalty may be appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons.

4.3 In deciding the level of the financial penalty, agreed at £17,500, reference is made to the SRA's Approach to Setting an Appropriate Financial Penalty (issued 13 August 2013 and updated on 25 November 2019). Following the three-step fining process, the SRA has determined the following:

a. At the time of the conduct Mr Nouril was a member of Mishcon De Reya LLP, a licensed body authorised and regulated by the SRA. The SRA, as a licensing authority, may impose (pursuant to Section 95 of the Legal services Act 2007) a maximum penalty of up to £50m on a manager or employee of a licensed body.

b. Step 1(a) – assessing the seriousness of the misconduct:

Nature of conduct score: nature score of 3 = high.

Harm or risk of harm: impact score of 4 = medium.

c. Step 1(b) – arriving at a broad penalty bracket:

Conduct band 'C', as nature and impact scores total 7 (3 + 4), indicating a basic penalty of between £5,001 and £25,000.

d. The SRA and Mr Nouril agree the basic penalty be at the top of this scale, namely £25,000, in view of the seriousness of the breaches and because the breaches could have, in other circumstances, caused harm to clients or the wider public interest.

e. The SRA and Mr Nouril agree the basic penalty be reduced by a 30% discount, to reflect the mitigating factors, such as assisting the SRA with its investigation, early admissions, degree of insight and regret and the amount of relevant training undertaken and commitment to reduce the risk of repetition of similar issues.

Consequently, the basic penalty of £25,000 is reduced by a discount of 30%, arriving at £17,500, which the SRA agrees is appropriate and Mr Nouril agrees to pay.

Publication

4.4 Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules states that any decision under Rule 3.1 or 3.2, including a Financial Penalty, shall be published unless the particular circumstances outweigh the public interest in publication.

4.5 The SRA considers it appropriate that this agreement is published, as there are no circumstances that outweigh the public interest in publication, and it is in the interests of transparency in the regulatory and disciplinary process to do so.

5. Acting in a way which is inconsistent with this Agreement

5.1 Mr Nouril agrees that he will not act in any way which is inconsistent with this agreement, such as by denying the admissions made in this Agreement or responsibility for the conduct referred to above. That may result in a further disciplinary sanction. Denying the admissions made or acting in a way which is inconsistent with this Agreement may also constitute a separate breach of Principles 1, 2 and 5 of the SRA Principles contained within the SRA Standards and Regulations 2019 (such SRA Principles having been in force since 25 November 2019).

6. Costs

6.1 Mr Nouril agrees to pay costs of the SRA's investigation in the sum of £3,500. Such costs are due within 28 days of a statement of costs being issued by the SRA.

The date of this Agreement is 24 February 2022.

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