

## **TMS Legal Ltd**

**Arena,9 Nimrod Way,Ferndown,BH21 7UH,England ,  
BH21 TUH**

**Licenced body  
645041**

**[Agreement Date: 28 September 2023](#)**

### **Decision - Agreement**

Outcome: Regulatory settlement agreement

Outcome date: 28 September 2023

Published date: 29 September 2023

### **Firm details**

No detail provided:

### **Outcome details**

This outcome was reached by agreement.

#### **Decision details**

##### **1. Agreed Outcome**

1.1 TMS Legal Limited ('the Firm'), a licenced body, agrees to the following outcome to the investigation of its conduct by the Solicitors Regulation Authority ('SRA'):

- a. it is fined £45,000;
- b. to the publication of this agreement;
- c. it will pay the costs of the investigation of £1,350.

#### **Reasons/basis**

##### **2. Summary of Facts**

The Firm was authorised as a licensed body on 12 March 2018 and at the relevant times acted for clients making claims against banks for mis-sold packaged bank accounts ("PBAs"). Between 30 June 2019 and 30 June 2020, the Firm had dealt with approximately 30,000 matters.

The SRA received reports from two Banks ("the Banks") about the conduct of the Firm and the quality of the PBA claims being submitted to

them. The SRA began an onsite inspection on 13 July 2020.

The FI Officer reviewed 43 files in total, 37 of which had been selected from files hand-picked by the Banks and six of which were selected randomly from the Firm's client matter list. Within this sample, the FI Officer identified the following issues:

The Firm did not carry out sufficient client due diligence, which led to the Firm submitting some claims with inaccurate information.

The Firm continued to act on two matters where the clients had asked it to stop.

The Firm provided information in packaged bank account questionnaires ("PBAQs"), a document produced by the Financial Ombudsman Service, using a process whereby staff inputted the information using a standard wording system, sometimes resulting in differences from the information supplied by clients to the Firm.

There were instances where supervision of non-legally qualified staff by the Firm's legal practitioner was not effective.

### **3. Admissions**

The Firm makes the following admissions, which the SRA accepts:

It did not carry out and/or have effective systems in place to carry out adequate client identification and due diligence, in breach of Principles 2 and 7 of the SRA Principles 2019 and paragraphs 2.1(a) and 7.1(c) of the Code of Conduct for Firms 2019 since these were introduced on 25 November 2019 (and previously Principles 4, 6 and 8 of the SRA Principles 2011 and Outcome 7.2 of the SRA Code of Conduct 2011).

On two occasions, it continued acting contrary to its clients' instructions to stop, in breach of Principle 2 of the SRA Principles 2019 and paragraph 4.1 of the Code of Conduct for Firms 2019 since these were introduced on 25 November 2019 (and previously Principle 6 of the SRA Principles 2011).

It provided information to the Banks in PBAQs using a standard wording which was, on some occasions, contrary to information supplied by clients to the Firm, and it failed to seek clients' consent as to the content of such standard wording in completed PBAQs, in breach of Principles 2 and 7 of the SRA Principles 2019 and paragraph 4.1 of the Code of Conduct for Firms 2019 since these were introduced on 25 November 2019 (and previously Principles 4 and 6 of the SRA Principles 2011 and Outcome 1.2 of the SRA Code of Conduct 2011).

The Firm's supervision of non-legally qualified staff was not effective in some instances, in breach of Principle 2 of the SRA Principles 2019 and



paragraph 2.1(a) of the Code of Conduct for Firms 2019 since these were introduced on 25 November 2019 (and previously Principles 6 and 8 of the SRA Principles 2011 and Outcome 7.8 of the SRA Code of Conduct 2011).

#### **4. Why a fine is an appropriate outcome**

The SRA's Enforcement Strategy sets out its approach to the use of its enforcement powers where there has been a failure to meet its standards or requirements.

When considering the appropriate sanctions and controls in this matter, the SRA has taken into account the admissions made by the Firm and the following mitigation put forward by the Firm:

37 of the 43 files (86%) examined by the FI Officer were extracted from a set of claims provided to the SRA by the Banks. As such, there is no suggestion that the issues identified by the FI Officer transcended the Firm's books.

The Firm took swift action to revamp its client identification and due diligence procedures once shortcomings were identified such that the risk of repetition is judged to be low.

The Firm's failures, on two occasions, to cease acting and/or to discontinue claims when asked to do so by clients represented isolated and inadvertent errors.

Any inaccuracies in PBAQs were due to the Firm's adoption of a standard wording system used by staff (about which clients were informed in their onboarding letter at the outset of each matter) and there is no suggestion that there was any deliberate attempt to misrepresent and/or enhance claims.

Whilst the Firm's supervision was not effective in some instances at the time of the onsite inspection, there were examples of direction and supervision to file handlers in the relevant period. Supervisory responsibilities of the Firm's legal practitioner have since improved such that it is now effective.

The Firm has engaged (and continues to engage on a retainer basis) with a compliance consultancy business, who has assisted, inter alia, in reviewing and updating the Firm's Supervision & Quality Policy, providing compliance training to staff and drafting amended client questionnaires.

The Firm has co-operated fully with the SRA investigation throughout, demonstrated insight in relation to the shortcomings identified and taken swift remedial action where appropriate.

The SRA considers that a fine is the appropriate outcome because:



The Firm is highly culpable. The issues arose due to ineffective systems and processes.

Although the breaches were rectified and remedial action was taken, they persisted longer than reasonable and were rectified mainly as a result of the SRA's investigation.

A fine is a credible deterrent to both the Firm and the wider profession, including other firms working in this sector who are subject to SRA regulations.

A fine is appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

## **5. Amount of the fine**

The amount of the fine has been calculated in line with the previous version of the SRA's published guidance on its approach to setting an appropriate financial penalty ("the Guidance"), which was in effect prior to its update on 30 May 2023.

Having regard to the Guidance, the SRA considers that the nature of the conduct was high because the Firm's ineffective systems and processes amounted to a pattern of misconduct which continued for a prolonged period of time. The Guidance gives this type of misconduct a score of three.

The SRA considers that the impact of the misconduct was high because the conduct had the potential to have a significant impact. The Guidance gives this level of impact a score of six.

The nature and impact scores add up to nine. Taking into account the Firm's annual domestic turnover, the Guidance indicates that a broad penalty bracket of £25,000 to £50,000 is appropriate.

The SRA considers that a basic penalty of £50,000, which is the upper limit of the penalty bracket, is appropriate.

The SRA considers that the basic penalty should be reduced by 10% to £45,000. This reduction reflects the mitigation at paragraph 4.2 above.

There is no evidence that the Firm made any financial gain or received any other benefit as a result of its conduct. Therefore, no adjustment is necessary and the amount of the fine is £45,000.

## **6. Publication**

The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory and disciplinary process. The Firm agrees to the publication of this agreement.

#### **7. Acting in a way which is inconsistent with this agreement**

The Firm agrees that it will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

If the Firm denies the admissions, or acts in a way which is inconsistent with this agreement, the conduct which is subject to this agreement may be considered further by the SRA. That may result in a disciplinary outcome or a referral to the Solicitors Disciplinary Tribunal on the original facts and allegations.

Acting in a way which is inconsistent with this agreement may also constitute a separate breach of principles 2 and 5 of the Principles and paragraph 3.2 of the Code of Conduct for Firms.

#### **8. Costs**

The Firm agrees to pay the costs of the SRA's investigation in the sum of £1,350. Such costs are due within 28 days of a statement of costs being issued by the SRA.

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