

Alan Brewer
Solicitor
259119

[Agreement Date: 12 July 2023](#)

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 12 July 2023

Published date: 13 July 2023

Firm details

Firm or organisation at date of publication and at time of matters giving rise to outcome

Name: The Bank of New York Mellon

Address(es): 160 Queen Victoria Street, London, EC4V 4LA

Firm ID: 311995

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Mr Alan Brewer (Mr Brewer), a solicitor at The Bank of New York Mellon (SRA ID: 311995) agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- a. he is fined £2,000,
- b. this agreement is published, and
- c. he will pay the costs of the investigation of £300.

2. Summary of Facts

2.1 On the morning of 11 March 2023, Mr Brewer was driving with his son (a minor) in his vehicle, to his son's weekly sporting activity, having consumed alcohol at a social event the night before. Mr Brewer was involved in a low impact road traffic collision which caused minor property damage. Police attended and breathalysed Mr Brewer who was



subsequently charged with driving a motor vehicle whilst above the prescribed alcohol limit, contrary to Section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

2.2 On 19 April 2023, Mr Brewer pleaded guilty at Chelmsford Magistrates' Court.

2.3 The sentence was:

- a. a 22-month disqualification (to be reduced by 22 weeks upon completion of a drink drive rehabilitation course, if completed by 18 July 2024),
- b. a fine of £2,292.

2.4 Mr Brewer was also ordered to pay:

- a. a victim surcharge of £917, and
- b. costs of £105.

2.5 Mr Brewer promptly notified the SRA that he had been charged in an email dated 13 March 2023. He also promptly notified the SRA of his conviction by email on 19 April 2023.

3. Admissions

3.1 Mr Brewer makes the following admissions which the SRA accepts:

- a. that by driving whilst under the influence of excess alcohol, for which he was convicted, he breached Principle 2 of the SRA Principles, which says:

"You act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons."

4. Why a fine is an appropriate outcome

4.1 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.

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

- a. this is an isolated incident,
- b. there was no lasting harm caused to persons or property,
- c. he pleaded guilty at the earliest opportunity,
- d. he promptly reported the charge and conviction to the SRA and co-operated with our investigation,



- e. he promptly completed the drink-drive rehabilitation course which was finalised on 23 June 2023; and
- f. he has shown insight and remorse for his actions.

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

- a. Mr Brewer was directly responsible for his conduct,
- b. there was a clear disregard to the risk or potential risk of harm to others,
- c. damage was caused to property as a result of the offence,
- d. a third party was travelling in Mr Brewer's vehicle who was unable to give consent,
- e. there was a high level of alcohol in the breath sample provided by Mr Brewer, and
- f. the court sentenced Mr Brewer to a lengthy disqualification from driving.

4.4 A fine is appropriate to uphold public confidence in the solicitors' profession and in legal services provided by authorised persons because any lesser sanction would not provide a credible deterrent to Mr Brewer and others. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

5. Amount of the fine

5.1 The amount of the fine has been calculated in line with the SRA's published guidance, as in force prior to 30 May 2023, on its approach to setting an appropriate financial penalty (the Guidance).

5.2 Having regard to the Guidance, the SRA and Mr Brewer agree that the nature of the misconduct was medium because Mr Brewer has cooperated with our investigation and has shown remorse and insight. Additionally, this is an isolated incident for Mr Brewer and does not form a pattern of misconduct. The Guidance gives this type of misconduct a score of one. The SRA considers that the impact of the misconduct was medium because whilst no lasting harm was caused, the RP's actions did cause damage to a third-party vehicle. It also had the potential to cause harm to others. The Guidance gives this level of impact a score of four.

5.3 The nature and impact scores add up to five. The Guidance indicates a broad penalty bracket of £1,001 to £5,000 is appropriate.

5.4 In deciding the level of fine within this bracket, the SRA has considered the mitigation at paragraph [4.2] above which Mr Brewer has put forward:

- a. this is an isolated incident,
- b. there was no lasting harm caused to persons or property,
- c. he pleaded guilty at the earliest opportunity,



- d. he promptly reported the charge and conviction to the SRA and co-operated with our investigation,
- e. he promptly completed the drink-drive rehabilitation course which was finalised on 23 June 2023; and
- f. he has shown insight and remorse for his actions.

5.5 Considering the factors in the Enforcement Strategy, this was not a planned or pre-meditated incident and is an isolated event. No lasting harm was caused, and Mr Brewer has shown insight and remorse for his actions. However, this must be balanced against the aggravating factors in the case, which are that Mr Brewer had a high level of alcohol in his breath, he demonstrated a reckless disregard as to the risk of harm, damage was caused to property as a result of the offence, and he drove with a third party in his vehicle who could not give consent. On this basis, the SRA considers a basic penalty of £2,000 to be appropriate.

5.6 The basic penalty of £2,000 takes into account the mitigation outlined at paragraph 5.4 above. The SRA considers that a fine of £2,000 is appropriate given the seriousness of the aggravating factors, namely that there was a third party travelling in Mr Brewer's vehicle who could not give consent. In the circumstances, the SRA does not consider that the basic penalty should be reduced to account for Mr Brewer's early admission.

5.7 Mr Brewer does not appear to have made any financial gain or received any other benefit as a result of his conduct. Therefore, no adjustment is necessary to remove this, and the amount of the fine is £2,000.

6. Publication

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

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

7.1 Mr Brewer agrees that he will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

7.2 If Mr Brewer 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.

7.3 Denying the admissions made or 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 7.3 of the Code of Conduct for Solicitors, RELs and RFLs.

8. Costs

8.1 Mr Brewer agrees to pay the costs of the SRA's investigation in the sum of £300. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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