

David Lundy
Solicitor
100020

[Fined Date: 7 June 2023](#)

Decision - Fined

Outcome: Fine

Outcome date: 7 June 2023

Published date: 14 July 2023

Firm details

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

Name: Lundys

Address(es): 17 Exchange Street, DRIFFIELD, YO25 6LA

Firm ID: 53467

Outcome details

This outcome was reached by SRA decision.

Decision details

Mr Lundy was directed to pay a financial penalty of £8,000 and ordered to pay costs of £600.

Reasons/basis

Who does this disciplinary decision relate to?

David Eric Lundy. Mr Lundy is the sole principal of his firm, Lundy's in Driffield, West Yorkshire.

Summary of Decision

Mr Lundy was fined for using the firm's client account as a banking facility, causing a shortage in the client account of £1,461.52 and failing to ensure money was returned promptly to the firm's clients or third parties.



Facts of the misconduct

Between April 2020 and February 2022 Mr Lundy used his firm's client account to transact office business. He blended office money with client money then paid out the 'office' part of that blend to pay his employees. He did this because it was easier to pay his staff that way. He used the client account as a banking facility. He breached rule 3.3 of the SRA Accounts Rules 2019 and Principle 5 of the SRA Principles 2019.

Between 13 August 2021 and 3 September 2021, Mr Lundy used client money to pay his staff. This caused a shortage of £1,461.52. He remedied this after 21 days by replacing the money with his own. There is no evidence any client was harmed by his conduct. In doing so he breached Rules 2.4 and 5.3 of the SRA Accounts Rules 2019 and Principle 5 of the SRA Principles 2019.

On at least five instances, Mr Lundy retained large sums of money in the client account. This money belonged to expectant beneficiaries. It was held in some cases for years and could and should have been remitted sooner. In doing so he breached Principles 2 and 7 of the SRA Principles 2019, Rule 2.5 of the SRA Accounts Rules 2019 and Rules 14.3 and 14.4 of the SRA Accounts Rules 2011.

SRA Principles 2019

SRA Principle 2: You act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.

SRA Principle 5: You act with integrity.

SRA Principle 7: You act in the best interests of each client.

SRA Accounts Rules 2019

Rule 2.4 Client money must be available on demand unless agreed in writing.

Rule 2.5 You must ensure client money is returned promptly to the client or the third party for whom it is held as soon as there is no longer any proper reason to hold those funds.

Rule 3.3 You must not use a client account to provide banking facilities to clients or third parties. The client account must be used for regulated services.

Rule 5.3 Client money must only be withdrawn from the client account if there are sufficient funds to make a payment.

SRA Accounts Rules 2011



Rule 14.3 Client money must be returned promptly as soon as there is no longer any proper reason to retain it.

Rule 14.4 You must, in writing at the end of a matter, promptly inform a client or other person you hold money for how much money you hold and why you hold it.

For as long as you hold money in the client account, you must, inform the client or other person in writing, at least every twelve months of how much money you hold and the reason why.

Decision on sanction

Mr Lundy was directed to pay a financial penalty of £8,000 and ordered to pay costs of £600.

This was because his conduct was serious by reference to the following factors in the SRA Enforcement Strategy:

1. The misconduct involved the potential misuse of client money.
2. Mr Lundy had direct responsibility for the conduct.
3. The failures persisted for a long time.

The following factors were considered in mitigation: Mr Lundy's unblemished regulatory history, his stopping the inappropriate use of the client account before the SRA investigation of the firm, the replacement of the shortage of the client account before the SRA inspection, his early admission of the breaches and frank insight into his misconduct once the breaches were drawn to his attention and the remedial steps taken by him.

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