Solicitors Regulation Authority

The Commercial Law Practice Limited
Pullman Court, Copper Street, Dorchester , DT1 1GA
Recognised body
446707

Agreement Date: 4 December 2024

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 4 December 2024

Published date: 3 February 2025

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 The Commercial Law Practice Limited (the Firm), a recognised body authorised and regulated by the Solicitors Regulation Authority (SRA), agrees to the following outcome to the investigation:

a. The Commercial Law Practice Limited will pay a financial penalty in the sum of £11,579 under Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedure Rules (the RDPRs),
b. to the publication of this agreement, under Rule 9.2 of the RDPRs, and
c. The Commercial Law Practice Limited will pay the costs of the investigation of £600, under Rule 10.1 and Schedule 1 of the RDPRs.

2. Summary of Facts

2.1 Our Anti-Money Laundering (AML) Proactive Supervision team carried out an AML desk-based review at the firm, to assess its compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulation 2017 (MLRs 2017).

2.2 In our letter dated 11 September 2024, the AML Officer identified that five of the six files reviewed did not contain client and matter risk assessments.

2.3 During the investigation, historic breaches of the Money Laundering Regulations 2007, for conduct before the MLRs 2017 came into force, were identified too.

Customer due diligence measures and Client and Matter risk assessments

2.4 Between 6 October 2011 and 25 June 2017, the firm failed to determine the extent of customer due diligence measures on a risk-sensitive basis, or be able to demonstrate to its supervisory authority that the extent of the measures is appropriate in view of the risks of money laundering and terrorist financing, pursuant to Regulation 7(3) of the MLRs 2007, and

2.5 Between 26 June 2017 and 22 March 2024, the firm failed to conduct adequate client and matter risk assessments (CMRA), pursuant to Regulation 28(12)(a)(ii) and Regulation 28(13) of the MLRs 2017.

3. Admissions

3.1 The firm admits, and the SRA accepts, that by failing to comply with the MLRs 2017, it has breached:

To the extent the conduct took place before 25 November 2019 (when the SRA Handbook 2011 was in force):

a. Principle 6 of the SRA Principles 2011 – which states you must behave in a way that maintains the trust the public places in you and in the provision of legal services.
b. Principle 8 of the SRA Principles 2011 – which states you must run in your business or carry out your role in the business effectively and in accordance with proper governance and sound financial risk management principles.

And the firm failed to achieve:

c. Outcome 7.2 of the SRA Code of Conduct 2011 – which states you have effective systems and controls in place to achieve and comply with all the Principles, rules and outcomes and other requirements of the Handbook, where applicable.
d. Outcome 7.5 of the SRA Code of Conduct 2011 – which states you comply with legislation applicable to your business, including anti-money laundering and data protection legislation.

And from 25 November 2019 (when the SRA Standards and Regulations came into force) until March 2024, the firm breached:

e. Principle 2 of the SRA Principles 2019 – which states you act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.
f. Paragraph 2.1(a) of the SRA Code of Conduct for Firms 2019 – which states you have effective governance structures, arrangements, systems, and controls in place that ensure you comply with all the SRA's regulatory arrangements, as well as with other regulatory and legislative requirements, which apply to you.
g. Paragraph 3.1 of the SRA Code of Conduct for Firms 2019 – which states that you keep up to date with and follow the law and regulation governing the way you work.

4. Why a fine is an appropriate outcome

4.1 The conduct showed a disregard for statutory and regulatory obligations and had the potential to cause harm, by facilitating dubious transactions that could have led to money laundering (and/or terrorist financing). This could have been avoided had the firm conducted appropriate risk assessments on its clients and matters on in-scope files.

4.2 It was incumbent on the firm to meet the requirements set out in the MLRs 2007 and MLRs 2017. The firm failed to do so. The public would expect a firm of solicitors to comply with its legal and regulatory obligations, to protect against these risks as a bare minimum.

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

a. The agreed outcome is a proportionate outcome in the public interest because it creates a credible deterrent to others and the issuing of such a sanction signifies the risk to the public, and the legal sector, that arises when solicitors do not comply with anti-money laundering legislation and their professional regulatory rules.
b. There has been no evidence of harm to consumers or third parties and there is a low risk of repetition.
c. The firm has assisted the SRA throughout the investigation and has shown remorse for its actions.
d. The firm did not financially benefit from the misconduct.

4.4 Rule 4.1 of the 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. There is nothing within this Agreement which conflicts with Rule 4.1 of the Regulatory and Disciplinary Rules and on that basis, a financial penalty is appropriate.

5. Amount of the fine

5.1 The amount of the fine has been calculated in line with the SRA's published guidance on its approach to setting an appropriate financial

penalty (the Guidance).

5.2 Having regard to the Guidance, the SRA, we, and the firm agree the nature of the misconduct was more serious (score of three). This is because the firm failed to determine the extent of customer due diligence measures on a risk-sensitive basis on its files between 6 October 2011 and 25 June 2017, in breach of Regulation 7(3) of the MLRs 2007, and it failed to conduct CMRAs adequately on files from 26 June 2017 until March 2024, in breach of Regulation 28 of the MLRs 2017.

5.3 The firm, on 19 November 2024, stated it was using CMRAs since 2015. However, on review of four of the firm's 'File Risk assessment and conflict of interest check' forms, these were not compliant as they did not adequately identify and assess risk.

5.4 The above risk assessments related to high-risk conveyancing, which is the majority area of work for the firm. The fee earner(s) has failed to provide reasons why they rated the risks on files as medium or low. Further, the risk assessments fail to show whether customer due diligence was to be carried out to check if the clients were Politically Exposed Persons (PEPs). The risk assessments also note existing clients; however, existing client relationship does not negate the firm's responsibility in carrying out a new and adequate CMRA. These risk assessment forms are different from the CMRA form documented on another file during the desk-based review, which was considered as compliant.

5.5 Consequently, the firm failing to conduct CMRAs adequately on files would have left it exposed to risks of money laundering and terrorist financing for over sixteen years. The firm only became fully compliant with the MLRs 2017 because of our desk-based review and guidance we have provided. The breach has arisen as a result of recklessness and a failure to pay sufficient regard to money laundering regulations and published guidance.

5.6 The firm has failed to ensure that it was fully compliant with its statutory obligations in respect of CMRAs until March 2024, a period of over six years since the MLRs 2017 came into effect (notwithstanding the MLRs 2007 being in force since 15 December 2007, during a time when the firm was trading, and carrying out 'in-scope' work).

5.7 The impact of the harm or risk of harm is assessed as being medium (score of four). The nature of conveyancing is considered high-risk, owing to the risk of abuse of the system by criminals. We note the firm undertakes a high percentage of work in scope of the money laundering regulations, with over half of the firm's turnover currently coming from conveyancing work and has done so historically. This puts it at a greater risk of being used to launder money. There is no evidence of there being any direct loss to clients or actual harm caused as a result of the firm's failure to ensure it had proper documentation in place.

5.8 The nature and impact scores add up to seven, placing the conduct in penalty bracket Band 'C' as directed by the Guidance, which indicates a broad penalty bracket of between 1.6% and 3.2% of the firm's annual domestic turnover.

5.9 The inadequacies have been identified from when the SRA Handbook 2011 came into force on 6 October 2011. Although the MLRs 2007 came into force on 15 December 2007, and were superseded by the MLRs 2017 on 26 June 2017, for proportionality of pleading we have limited the more historical aspect of the allegations to the start of the SRA Handbook 2011.

5.10 The firm, as of 4 November 2024, confirmed it has delivered CMRA process training to its fee earners, and the firm has had to review its existing active matters in scope of the MLRs 2017 and has documented a CMRA on each file. Despite its current compliance, it has evidently failed to do this for a period over six years since the MLRs 2017, came into force. The lack of client and matter risk assessments on files, over such a prolonged period, shows a pattern of behaviour and increases the risks of the firm laundering illicit funds. The SRA, therefore, considers a basic penalty in the middle of the bracket to be appropriate.

5.11 Based on the evidence the firm has provided of its annual domestic turnover, this results in a basic penalty of £14,474.

5.12 The SRA considers that the basic penalty should be reduced to £11,579. This reduction reflects the firm's cooperation with the AML Proactive Supervision team and AML Investigations team, along with remedying the breaches.

5.13 The firm does not appear to have made any financial gain or received any other benefit as a result of its conduct. Therefore, no adjustment is necessary to remove this and the amount of the fine is £11,579.

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. The firm agrees to the publication of this agreement.

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

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

7.2 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.

7.3 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

8.1 The firm agrees to pay the costs of the SRA's investigation in the sum of £600. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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