

Richard Underwood

Solicitor

101250

Agreement Date: 11 July 2022

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 11 July 2022

Published date: 19 July 2022

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Pennington Manches Cooper

Address(es): 125 Wood Street, London, EC2V 7AW

Firm ID: 419867

Outcome details

This outcome was reached by agreement.

Reasons/basis

1. Agreed outcome

1.1 Mr Richard Laurence Underwood, a retired solicitor who had worked at Penningtons Manches LLP (later Penningtons Manches Cooper LLP) (the Firm), agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- a. Mr Underwood will pay a financial penalty in the sum of £2,000, pursuant to Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedure Rules
- b. to the publication of this agreement, pursuant to Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules
- c. he will pay the costs of the investigation of £600 pursuant to Rule 10.1 and Schedule 1 of the SRA Regulatory and Disciplinary Procedure Rules.

2. Summary of Facts



2.1 Mr Underwood was admitted as a Solicitor on 2 April 1973. At the material time of the concerns investigated by the SRA as a result of his self-report of November 2018, he was in practice as a Solicitor and Partner at the Firm, later moving into a Consultant role at the Firm in 2014. Mr Underwood retired from the legal profession in March 2019 and remains on the Roll.

2.2 Mr Underwood acted on behalf of Client A in relation to the acquisition in 2001/2 and development of a Spanish property that was later offered out as a holiday let.

2.3 Mr Underwood held a Lasting Power of Attorney for Client A, the beneficial owner of the holiday let, and was, as such, responsible for managing their interests in the property.

2.4 On the instructions of Client A or as a result of the Lasting Power of Attorney, Mr Underwood received, managed, retained, and repaid funds in association with these holiday lets. This included receiving holding deposits, security deposits and rent from the letting agent or prospective tenant directly into the Firm's client account. The transactions were all openly recorded in the firm's ledgers.

2.5 Between 19 February 2010 and 9 August 2018, Mr Underwood allowed or caused payments to be made from the client account of £283,099.45. There was no underlying solicitor / client transaction to these payments which formed part of Mr Underwood's regulated activities.

2.6 Accordingly, in respect of such payments, Mr Underwood was providing a banking facility to Client A.

2.7 Mr Underwood had previously been notified by the Firm on 27 March 2018 to check that his matter did not fall within the description of 'undertaking banking services'. On 1 May 2018, he was reminded by the Firm of the need to stop any ongoing use of the client account that may be criticised.

2.8 Despite these notifications, he received two payments in July and August 2018 in association with the holiday lets. He was informed by the firm on 21 September 2018 that any further instances of the misuse of client account would result in disciplinary action. No further payments were received.

3. Admissions

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

- a. That between February 2010 and October 2011, he caused or allowed the Firm's client account to be used improperly, namely as



a banking facility in the absence of underlying legal transactions and/or services forming part of his normal regulated activities contrary to guidance note (ix) to Rule 15 of the Solicitors Accounts Rules 1998.

- b. That between October 2011 and August 2018, he caused or allowed the Firm's client account to be used improperly, namely as a banking facility in the absence of an underlying legal transaction and/or a service forming part of his normal regulated activities in breach of Rule 14.5 of the SRA Accounts Rules 2011.

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 Underwood and the following mitigation which he has put forward:

- a. He had practised as a practising Solicitor for 46 years and holds a clear regulatory history
- b. He had self-reported the matter to the SRA in November 2018 including his intention to retire in March 2019.
- c. He did retire in March 2019, and he ceased practising as a Solicitor and no longer holds a practising certificate.
- d. No allegation of Money Laundering is made against him

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

- a. The conduct was reckless in that Mr Underwood was unaware of his regulatory obligations and created a risk of assisting money laundering. The funds received by Mr Underwood had been held for client convenience and had no proper connection to underlying legal services being provided by the Firm
- b. The conduct took place over nine years and only ceased when prompted by the Firm in September 2018
- c. Mr Underwood was an experienced solicitor and was expected to uphold the law and regulation that governed the way a solicitor must work
- d. There is no risk of repetition as Mr Underwood retired in March 2019 in accordance with his self-report in November 2018
- e. Mr Underwood has assisted the SRA throughout the investigation. He identified the breaches in his self-report of November 2018, has acted promptly throughout, and is remorseful for the consequences of his actions.

4.4 A Fine is appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services. 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 on its approach to setting an appropriate financial penalty (the Guidance).

5.2 Having regard to the Guidance, the SRA and Mr Underwood agree that the nature of the misconduct was high because it was reckless. Mr Underwood failed to comply with his regulatory obligations and by allowing the Firm's client account to receive and return payments directly from tenants, Mr Underwood created a potential risk of assisting money laundering however, no allegations of money laundering are made.

The Guidance gives this type of misconduct a score of three.

5.3 The SRA considers that the impact of the misconduct was medium because of the risk of assisting money laundering that resulted although no actual money laundering occurred. The Guidance gives this level of impact a score of four.

5.4 The nature and impact scores add up to seven. The Guidance indicates a broad penalty bracket of £5,001 to £25,000 is appropriate.

5.5 In deciding the actual level of Fine within this bracket, the SRA has considered the mitigation at paragraph 4.2 above which Mr Underwood has put forward and which are accepted by the SRA. The SRA considers that on the basis of the mitigation including Mr Underwood's retirement from practice in March 2019 some three years ago, a penalty of £2,000 is appropriate.

5.6 This also takes in consideration the admissions by Mr Underwood in his self-report of November 2018 and his full and prompt co-operation with the SRA's investigation.

5.7 Furthermore, a Fine of £2,000 is within range of the SRA's fining powers, pursuant to s44D(2)(b) of the Solicitors Act 1974 (as amended), and as such the sanction can be imposed without reference to the Solicitors Disciplinary Tribunal, which would cause further delay in bringing this matter to a conclusion and which would be disproportionate in all the circumstances.

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 Underwood agrees to the publication of this agreement.

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

7.1 Mr Underwood 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 Underwood 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 Underwood 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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