



Simpson Duxbury
2 Tyrrel Street, Bradford , BD1 1RJ
Recognised body
79895

[Agreement Date: 30 January 2024](#)

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 30 January 2024

Published date: 2 February 2024

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Simpson Duxbury (the Firm), a recognised body agrees to the following outcome to the investigation of its conduct by the Solicitors Regulation Authority (SRA):

- a. it is fined £5,899
- b. to the publication of this agreement
- c. it will pay the costs of the investigation of £300.

2. Summary of Facts

3. The Firm received a Qualified Accountant's Report (QAR) for the period ending 31 May 2021. The firm also received a QAR for the period 31 May 2022. Both QARs highlighted that the Firm held a number of client balances on which there had been no movement for the prior 12 months.

4. As of 2 February 2023, the Firm held 393 client balances where there had been no movement for the prior 12 months. This totalled £596,706.79. The sums for each client matter ranged from £78,846.61 to £0.01 and the matters dated from 18 May 1995 to present.



5. The Firm explained that the matters had arisen due to focusing on current client matters resulting in historic matters being left. The residual balances had occurred where the client could not be located/identified.

6. The Firm have since put in place policies and procedures to prevent future breaches and are working to resolve the outstanding matters.

7. Admissions

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

- a. The Firm breached the Accounts Rules in relation to:
 - i. failing to return money to clients promptly when their matters concluded
 - ii. not taking steps to address the high number of residual client balances upon receipt of the first Qualified Accountant's Report in June 2021 and
 - iii. failing to advise clients about the money due back to them when matters concluded.
- b. The conduct occurred between 1995 to 2023 and resulted in the following breaches:
 - i. Solicitors Accounts Rules 1998:
 - Rule 15(3) of the Solicitors Accounts Rules 1998 (as amended) (the 1998 Rules) 'Requires funds to be returned to the client "promptly" once there is no longer any proper reason to retain the funds eg at the end of the matter'.
 - Rule 15(4) of the 1998 Rules 'Where client money is retained after a matter has ended, the solicitor must inform the client of the amount of funds held and the reason for retained the funds. This should be done promptly. If a solicitor continues to hold such funds, they must report to the client in writing at least once every 12 months detailed reasons for the continued retention'.
 - ii. Accounts Rules 2011:
 - 14.3 – Client money must be returned to the client (or other person on whose behalf the money is held) promptly, as soon as there is no longer any proper reason to retain those funds. Payments received after you have already accounted to the client, example by way of a refund, must be paid to the client promptly.
 - 14.4 - You must promptly inform a client (or other person on whose behalf the money is held) in writing of the amount of any client money retained at the end of a matter (or the substantial conclusion of a matter), and the reason for that retention. You must inform the client (or other person) in writing at least once every twelve months thereafter of the amount of client money still held and the



reason for the retention, for as long as you continue to hold that money.

iii. Accounts Rules 2019:

- Paragraph 2.5 - You ensure that client money is returned promptly to the client, or the third party for whom the money is held, as soon as there is no longer any proper reason to hold those funds.
- Paragraph 6.1 - You correct any breaches of these rules promptly upon discovery. Any money improperly withheld or withdrawn from a client account must be immediately paid into the account or replaced as appropriate.

c. The Firm breached the SRA Principles:

i. SRA Principles 2011:

- Principle 4 - which says you act in the best interests of each client.
- Principle 5 - which says that you provide a proper standard of service to your clients

ii. SRA Principles 2019

- Principle 2 - which says that you act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.
- Principle 7 - which says that you act in the best interests of each client.

d. The Firm breached the Code of Conduct for Firms:

i. Code of Conduct for Firms 2011

- failed to achieve outcome 7.2 of the Solicitors Code of Conduct 2011. 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.
- failed to achieve outcome 7.3 - You identify, monitor and manage risks to compliance with all the Principles, rules and outcomes and other requirements of the Handbook, if applicable to you, and take steps to address issues identified.

ii. Code of Conduct for Firms 2019

- Paragraph 2.1(a) - you have effective governance structures, arrangements, systems and controls in place that ensure you comply with all the SRA's regulatory arrangements.

8. Why a fine is an appropriate outcome

8.1 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.

8.2 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 which it has put forward:

- a. The residual balances arose where there was a reason that the money could not be distributed promptly, for example, when a beneficiary could not be identified.
- b. The Firm have implemented new policies and procedures to prevent future occurrences.

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

- a. The oldest residual balance is from 1995, therefore the breaches formed a pattern of misconduct and continued after it was known to be improper.
- b. The Firm held onto funds which belonged to its clients for an unacceptable period. The delay in returning client funds increased the risk that the intended recipients would not be located and would not receive their funds.
- c. The Firm received their first QAR for the period ending 2021 and failed to act upon the breaches.

8.4 A fine is appropriate to maintain professional standards and 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 the Firm or others. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

9. Amount of the fine

9.1 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).

9.2 Having regard to the Guidance, the SRA and the Firm agree that the nature of the misconduct was more serious because the breaches formed a pattern of misconduct and continued after it was known to be improper. The Guidance gives this type of misconduct a score of three.

9.3 The SRA considers that the impact of the misconduct was medium because the delay in distributing client funds may impact beneficiaries who are unable to be located and therefore will not receive the funds owed to them. Some beneficiaries may have suffered loss or inconvenience due to the delay in receiving funds due to them. The Guidance gives this level of impact a score of four.

9.4 The nature and impact scores add up to seven. Therefore, the Guidance recommends a broad penalty bracket of 1.6 to 3.2 percent of annual domestic turnover.



9.5 The level of fine within this bracket has been determined by taking account of the aggravating and mitigating features of the conduct. In particular, although the residual balances existed for a considerable period of time they occurred as a result of factors beyond the firm's control, and it has since put in place systems to prevent this occurring in future. On this basis, the SRA considers a basic penalty of £6,554 to be appropriate.

9.6 The SRA considers that the basic penalty should be reduced by 10% to £5,899. This reduction reflects the firm's subsequent remedial action and cooperation with the investigation.

9.7 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 £5,899.

10. Publication

10.1 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.

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

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

11.2 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.

11.3 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.

12. Costs

12.1 The Firm 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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