Solicitors Regulation Authority

Margetts & Ritchie
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Recognised body
052761

Agreement Date: 7 November 2024

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 7 November 2024

Published date: 12 November 2024

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Margetts & Ritchie (the Firm), a recognised body, authorised and regulated by the Solicitors Regulation Authority (SRA), agreed to the following outcome to the investigation:

a. Margetts & Ritchie will pay a financial penalty in the sum of £3,828, under Rule 3.1 (b) of the SRA Regulatory and Disciplinary Procedures Rules,
b. to the publication of this agreement, under Rule 9.2 of the SRA Regulatory and Disciplinary Procedures rules; and
c. Margetts & Ritchie will pay the costs of the investigation of £1,350, under Rule 10.1 and Schedule 1 of the SRA Regulatory and Disciplinary Rules.

Reasons/basis

2. Summary of Facts

2.1 Our Anti-Money Laundering (AML) Proactive Supervision team carried out an AML inspection at Margetts & Ritchie to assess its compliance with

the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulation 2017 (MLRs 2017).

2.2 We identified a number of AML control failings. These were being the delay in implementing a firm-wide risk assessment (FWRA) and an incorrect declaration made in this regard in January 2020, the absence of client and matter risk assessments (CMRA) on all six in-scope client files reviewed, a failure to recognise and apply enhanced customer due diligence (EDD) in a matter involving a high-risk third country (HRTC) and source of funds (SoF) from an unrelated third-party.

2.3 This resulted in a referral to our AML Investigations Team.

FWRA and CMRAs and EDD

2.4 Between 26 June 2017 and 19 February 2023, the firm failed to have in place a documented assessment of the risks of money laundering and terrorist financing to which its business was subject (a FWRA), pursuant to Regulation 18(1) and 18(4) of the MLRs 2017.

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

2.6 All six files reviewed during the inspection did not have a CMRA in place.

2.7 Furthermore, out of the six files checked, three also lacked appropriate source of funds checks. One of these three files also involved a matter involving a property transaction, where the client was residing in Yemen. Yemen was then and still is a high-risk third country (HRTC) according to the FATF list of countries under increased monitoring (last updated on 25 October 2024). This warranted EDD to be carried out prior to the transaction taking place, including a source of funds check.

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 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 The issues identified are serious control failings and the conduct had the potential to cause significant harm. A general culture of failing to assess risks posed to the firm in relation to money laundering and terrorist financing, was indicated by failing to have in place a FWRA and not conducting CMRAs on files. The periods of time for non-compliance are substantial, especially considering over half of the firm's work is in the field of conveyancing, a high-risk area of work.

4.3 These failings flowed down to file level, such that the firm failed to apply EDD in a matter, owing to a HRTC being involved, and perform SoF checks too.

4.4 It is a regulatory obligation for the firm to meet the requirements set out in the MLRs 2017, which the firm failed to do.

4.5 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 is no evidence of harm to consumers or third parties.
c. The firm recognises that it failed in its basic duties regarding statutory money laundering regulations and regulatory compliance, as identified during our inspection and subsequent investigation.
d. The firm has cooperated fully with us, admitted the breaches, shown remorse and remedied the breaches, and there is low risk or repetition.

4.6 A fine is appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. 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 the firm agree that the nature of the misconduct was more serious (score of three). This is owing to it failing to have a documented FWRA in place and a CMRA not being present on all files checked. Failing to carry out appropriate source of funds checks on two files and enhanced customer due diligence on another, also justifies this.

5.3 The SRA considers that the impact of the misconduct was medium (score of four). The firm does not have any other relevant regulatory history. Although there is no evidence to suggest the firm was in fact used for the purposes of money laundering and/or terrorist financing, there was still the potential of harm to occur, owing to the longstanding non-compliance (which flowed down to individual matters, as evidenced above). This is particularly the case, as over half of the firm's work is in conveyancing. The firm's conduct had the potential to cause moderate loss or have a moderate impact.

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

5.5 SRA and the firm agree a financial penalty in Band C4. This is because the firm should have been aware of its statutory obligations under the MLRs 2017, with the aggravating factor that the majority of its

work is in scope of the MLRs 2017, but there is no evidence of any harm being caused or of an unwillingness to improve. Band C4 determines a basic penalty of 2.8% of annual domestic turnover.

5.6 The firm's annual domestic turnover is £170,895. This results in a basic penalty of £4,785.

5.7 The SRA considers that the basic penalty should be reduced by 20%, in terms of mitigation discount, to £3,828. This reduction reflects the following factors in the Guidance that apply to this case:

a. The firm has implemented a new FWRA and CMRA process, bringing itself back into compliance, with the assistance of an external consultant.
b. The firm has cooperated with the SRA's AML Proactive Supervision and Investigations teams.

5.8 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 £3,828.

6. Publication

6.1 Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules states that any decision under Rule 3.1 or 3.2, including a Financial Penalty, shall be published unless the particular circumstances outweigh the public interest in publication.

6.2 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 £1,350. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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