

Kolawole Babatunde Idowu

Solicitor

311565

[Agreement Date: 29 February 2024](#)

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 29 February 2024

Published date: 4 March 2024

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Fitzpatrick & Co

Address(es): 887 Old Kent Road, London, SE15 1NLq

Firm ID: 519741

Firm or organisation at date of publication

Name: Defank Solicitors

Address(es): 92 Coldharbour Lane, London, SE5 9PU

Firm ID: 838591

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Mr Kolawole Babatunde Idowu, a solicitor, agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- a. he is fined £2,376,
- b. to the publication of this agreement,
- c. he will pay the costs of the investigation of £1,350.



Reasons/basis

2. Summary of Facts

2.1 We undertook a forensic investigation into Fitzpatrick & Co (the firm), which reported concerns regarding compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs 2017) as well as the Solicitors Accounts Rules 2011.

2.2 Fitzpatrick & Co ceased trading on 29 December 2022. Mr Kolawole Babatunde Idowu (Mr Idowu) was a partner and owner of Fitzpatrick & Co. He held all compliance roles and managed the firm on a day-to-day basis. As role holder, Mr Idowu was responsible for the firm's compliance with the MLRs at both firm and file level. He was responsible for ensuring that policies, controls and procedures were in place to properly identify and verify clients, and for ensuring that the fee earners were adequately trained in these policies, controls and procedures. He had responsibility for supervising the work of his fee earners. He was also responsible for his firm's compliance with the Solicitors Accounts Rules.

2.3 Our forensic investigation identified seven conveyancing matters (property sales), which HM Land Registry (HMLR) initially refused to register, owing to concerns about the identification and verification documents obtained. In view of the number of transactions that HMLR initially refused to register, cumulatively, Mr Idowu materially caused, allowed and contributed to his firm failing to satisfy the requirements of Regulation 28(2) of the MLRs 2017, which required it to identify and verify the identity of its clients.

2.4 Our forensic investigation also identified two payments totalling £34,000, which did not relate to the underlying legal transaction. Mr Idowu should have been aware of the SRA's Warning Notice "Improper use of client account as a banking facility" (first published in 2014, concerning a rule that had been in force since March 2004). He showed a lack of awareness and knowledge of his obligations, and failed to pay sufficient regard to the Warning Notice.

3. Admissions

3.1 Mr Idowu makes the following admissions, which the SRA accepts:

- a. Between 1 November 2018 and 16 March 2020, he directly caused, allowed and contributed to his firm failing to satisfy its obligations with regards to customer due diligence in respect of seven conveyancing matters, in breach of Regulation 28(2) of the MLRs 2017.
- b. On 1 October 2018, he allowed the firm's client account to be used to make two payments totalling £34,000, which did not relate to the



underlying legal transaction, in breach of Rule 14.5 of the Solicitors Accounts Rules 2011.

And in so doing: From 1 November 2018 to 25 November 2019 (when the SRA Handbook 2011 was in force), he breached:

- a. Rule 14.5 of the Solicitors Accounts Rules 2011 which states that you must not provide banking facilities through a client account. Payments into, and transfers or withdrawals from, a client account must be in respect of instructions relating to an underlying transaction (and the funds arising therefrom) or to a service forming part of your normal regulated activities.
- b. Principle 6 of the SRA Principles 2011 which states that you must behave in a way that maintains the trust the public places in you and in the provision of legal services.
- c. Principle 8 of the SRA Principles 2011 which states that you must run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial risk management principles. And failed to achieve:
- d. Outcome 7.5 of the SRA Code of Conduct 2011 which states that you must comply with legislation applicable to your business, including anti money laundering and data protection legislation.
- e. Outcome 7.8 of the SRA Code of Conduct 2011 which states that you must have a system for supervising clients' matters, to include the regular checking of the quality of work by suitably competent and experienced people.

And from 25 November 2019 (when the SRA Standards and Regulations came into force), until 16 March 2020, he breached:

- e. Principle 2 of the SRA Principles 2019 which states that you must act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.
- f. Paragraph 3.5 of the SRA Code of Conduct for Solicitors, RELs and RFLs which states that where you supervise or manage others providing legal services:
 - i. you remain accountable for the work carried out through them; and
 - ii. you effectively supervise work being done for clients.
- g. Paragraph 7.1 of the SRA Code of Conduct for Solicitors, RELs and RFLs which requires you to 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 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, we and Mr Idowu agree that the nature of the misconduct was more serious on the basis that HMLR initially refused to register seven applications, as exemplified in the forensic investigation report, owing to serious concerns about the identification and verification of the clients in these transactions. The matter is serious in light of the number of transactions and indicates a pattern of misconduct. The breaches identified concern the Money Laundering Regulations as well as the Solicitors Accounts Rules. The Guidance gives this type of misconduct a score of three.

5.3 We consider the impact of harm or risk of harm to be medium, on the basis that it caused moderate loss and had a moderate impact. Aside from the seven cases relied upon by the SRA, Mr Idowu has stated (and we accept the same) that he experienced widespread failures by HMLR to register transactions, involving clients with foreign citizenship, in respect of which all were subsequently registered by HMLR (after identification and verification documents had been clarified). The Guidance gives this type of misconduct a score of four.

5.4 The "nature of the conduct" and the "impact of harm or risk of harm" added together give a score of seven. This places the penalty in Band "C" as directed by the Guidance, which determines a basic penalty of £2,376. We have also considered mitigating factors and consider that the basic penalty should not be discounted.

5.5 Mr Idowu does not appear to have made any financial gain or received any other benefit as a result of his conduct. Therefore, no adjustment is necessary and the financial penalty is £2,376.

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 as there are no circumstances that outweigh the public interest in publication and it is in the interest of transparency in the regulatory and disciplinary process.

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

7.1 Mr Idowu agrees that he will not act in any way which is inconsistent with this agreement, such as by denying responsibility for the conduct referred to above. This may result in a further disciplinary sanction.

7.2 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 Idowu 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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