

David Gamlin

Solicitor

040204

Agreement Date: 2 January 2024

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 2 January 2024

Published date: 11 January 2024

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: NASA Umbrella Ltd

Address(es): 5th floor Castlemead, Lower Castle Street, Bristol, BS1 3AG

Firm ID: N/A

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Mr David Gamlin, a Solicitor, agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- a. he is fined £1,500
- b. to the publication of this agreement
- c. he will pay the costs of the investigation of £300.

2. Summary of Facts

2.1 On 26 December 2021, Mr Gamlin was driving along Chilworth Road, Chilworth, Surrey when he hit a curb with force and caused his airbags to deploy. The incident caused damage to his vehicle and injury to his eye. The police attended and Mr Gamlin was breathalysed and arrested because his alcohol level was above the prescribed limit.

2.2 On 1 June 2022, Mr Gamlin was charged with the offence of driving a motor vehicle when his alcohol was above the prescribed limit.

2.3 On 21 July 2022, Mr Gamlin self-reported that he had been charged with drink driving. Mr Gamlin advised that he had pleaded not guilty and would let us know the outcome of the proceedings listed for 14 December 2022.

2.4 On 14 December 2022, at Surrey Magistrates' Court, Mr Gamlin changed his plea to guilty and was convicted of drink-driving. Mr Gamlin reported this to the SRA on the same date. Mr Gamlin received the following sentence:

- a. he received a fine of £2,700;
- b. he was disqualified from driving for 16 months, to be reduced by 16 weeks upon completion of a drink driving awareness course; and
- c. he was ordered to pay costs of £400 and a victim surcharge of £190.

3. *Admissions*

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

- a. By virtue of his conduct and conviction for driving a motor vehicle when his level of alcohol was above the prescribed limit, he failed to act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons, in breach of Principle 2 of the SRA Principles.

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 considered the admissions made by Mr Gamlin and the following mitigation which he has put forward:

- a. He has shown insight and remorse.
- b. He promptly reported the matter to the SRA and co-operated fully with its investigation.
- c. This was an isolated incident and it does not form a pattern of behaviour.

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

- a. The conduct caused damage to Mr Gamlin's vehicle and injury to his eye. The conduct also had the potential to cause harm to other road users.
- b. There was a reckless disregard of the risk of harm.

4.4 A fine is appropriate to uphold public confidence in the solicitors' profession and in legal services provided by authorised persons because any lesser sanction would not sufficiently address the conduct and provide a credible deterrent to Mr Gamlin and others. 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, as in force prior to 30 May 2023 (the Guidance).

5.2 Having regard to the Guidance, the SRA and Mr Gamlin agree that the nature of the misconduct was low because the conduct did not form a pattern of behaviour and Mr Gamlin has cooperated with the investigation. The Guidance gives this type of misconduct a score of one.

5.3 The SRA considers that the impact of the misconduct was medium because the conduct caused minimal harm and had the potential to cause moderate harm. The Guidance gives this level of impact a score of four.

5.4 The nature and impact scores add up to five. The Guidance indicates a broad penalty bracket of £1,001 to £5,000 is appropriate.

5.5 In deciding the level of fine within this bracket, the SRA has considered the aggravating and mitigating factors in line with the Enforcement Strategy. The SRA has also considered the topic guide on driving with excess alcohol convictions. This document provides key guidance within our decision-making framework in relation to driving with excess alcohol convictions and sets out the aggravating and mitigating factors which we have considered. The SRA considers that this was an isolated incident, there is no pattern of behaviour, and Mr Gamlin has shown insight and remorse. However, this must be balanced against the aggravating factors in the case, which are that Mr Gamlin's conduct caused harm to himself and damage to his vehicle. The SRA considers a basic penalty of £2000 which is at the lower end of the bracket, to be appropriate.

5.6 The SRA considers that the basic penalty should be reduced to £1,500 to take into account the mitigation at paragraph 4.2 above.

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 Gamlin agrees to the publication of this agreement.

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

7.1 Mr Gamlin 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 Gamlin 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 SRA Principles and paragraph 7.3 of the SRA Code of Conduct for Solicitors, RELs and RFLs.

8. Costs

8.1 Mr Gamlin 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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