

Morgan Wiseman Solicitors Limited (Morgan Wiseman Solicitors)

66-68 Alma Street, Luton , LU1 2PL

Recognised body

638355

Agreement Date: 14 August 2023

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 14 August 2023

Published date: 17 August 2023

Firm details

Firm or organisation at date of publication

Name: Morgan Wiseman Solicitors

Address(es): 66-68 Alma Street, Luton, LU1 2PL

Firm ID: 638355

Outcome details

This outcome was reached by agreement.

Decision details

2. Summary of Facts

2.1 On or about 5 August 2020, the Firm were instructed to act on behalf of Company O by Mr C, a shareholder in Company O, in connection with the sale at auction of a property to Company C. A fee earner at the Firm, Mr I had conduct of the matter.

2.2 Mr C had previously provided an "Authority of Funds Transfer" document to the Mr I dated 6 July 2020 in which Mr C gave express authority to the Firm to transfer the proceeds of a property sale to Mr S.

2.3 On 10 August 2020, Mr C signed a written authority form entitled "Clients' Initial Instructions Form (Sale)" to pay the net proceeds of sale to a third-party "Mr S". He provided bank details for Mr S whose bank was in the

United Arab Emirates. No enquiries were recorded on the file by Mr I with the client to understand the reason for this.

2.4 On 23 September 2020 the Firm transferred £102,605 to Mr S in Dubai in accordance with its instructions. There was no proper reason connected with the underlying legal transaction for the transfer to Mr S.

2.5 Prior to making the transfer, on 23 September 2020, Mr I sent an e-mail to the Firm's accounts department with instructions to transfer £102,650. The email stated that funds were "to go out to Client in acc details I've sent you".

2.6 Mr I knew that :

- a. The account number he had provided was for Mr S, rather than the client O;
- b. Mr S was not the Firm's client; and
- c. The Firm's procedures did not permit proceeds of sale to be paid to a person other than the client.

2.7 The Firm's Accounts department failed to pick up on a difference between the name of the client and the name of the beneficiary. The director authorising the transfer was unaware of the difference.

2.8 The Firm has amended its client payment processes in response to this incident and the risk of repetition is low.

3. *Admissions*

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

- a. That by authorising the payment of £102,605 to the Dubai based bank account of Mr S:
 - a. it failed to verify that there was a proper reason for the transfer of the funds connected to the firm's regulated activities for this payment.
 - b. it provided a banking facility through its client account in breach of the SRA Accounts Rule 3.3.

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 the Firm and the following mitigation which it has put forward:



- a. Mr I instructed the accounts department and director that the transfer was to a client. The breach of the regulations for the Firm was that this was not checked.
- b. The conduct was not intentional and happened because of an oversight by the Firm's accounts team. Once discovered the Firm took steps to mitigate the oversight.
- c. The Firm have implemented new procedures to prevent similar concerns arising in the future on non-conveyancing matters.

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

- a. There was potential for the client to suffer moderate loss in the circumstances.
However, no actual loss or harm was caused.
- b. The Firm authorised the payment of monies into the account of a person who was not a client of the Firm in breach of SRA Accounts Rule 3.3.

4.4 A fine is appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. The breach had potential to cause harm to clients. The SRA Accounts Rules are in place to safeguard client money. The approach taken to the regulations was concerning and a deterrent is needed. 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). The Guidance applied in this case was that prior 30 May 2023 when the agreed outcome was reached.

5.2 Having regard to the Guidance, the SRA and the Firm agree that the nature of the misconduct was low because it was not intentional and upon discovery immediate steps were taken to mitigate any future risk. It does not form a pattern of misconduct. 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 it had the potential to cause moderate loss. The Guidance gives this level of impact a score of four.

5.4 The nature and impact scores add up to five. Therefore, the Guidance recommends a broad penalty bracket of £1000 to £5000.

5.5 In deciding the level of fine within this bracket, the SRA has considered the mitigation at paragraph 4.2 above which the Firm has put forward:

- a. the steps taken by the Firm to ensure there are no future occurrences of this type.
- b. the misconduct was because of the Firm's failure to adhere to its own processes and procedures.

5.6 The SRA considers that the Firm's conduct was reckless, but not grossly reckless that would require a fine at the higher end of the bracket. The impact of its conduct was minimal, however a credible deterrence is necessary to deter future misconduct.

5.7 The SRA considers that the basic penalty should be £2,500 which is toward the middle of the bracket, to be appropriate.

5.8 The Firm has not made any financial gain or received any other benefit because of its conduct. Therefore, no adjustment is necessary to remove this, and the amount of the fine is £2,500.

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. 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 referred to in paragraph 3.1 above 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