Paul Smith
Solicitor
364074

Agreement Date: 14 February 2023

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 14 February 2023

Published date: 21 February 2023

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Proclaim Legal Services Limited

Address(es): Concorde House, Concorde Way, Preston Farm Industrial Estate, Stockton-on-Tees, TS18 3RB.

Firm ID: 564486

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Paul Smith ('Mr Smith') a director of Proclaim Legal Services Limited ('the Firm'), agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

  a. he is rebuked

  b. to the publication of this agreement

  c. he will pay the costs of the investigation of £600.

Reasons/basis

2. Summary of facts

2.1 The SRA carried out an investigation into the Firm due to concerns about the effectiveness of its closure. The Firm was owned and managed by Mr Smith. He was also the Firm's Compliance Officer for Legal Practice, Compliance Officer for Finance and Administration and Money Laundering Reporting Officer.

2.2 The investigation identified areas of concern in relation to the SRA Accounts Rules 2011, the SRA Accounts Rules 2019 and the SRA Indemnity Insurance Rules 2019.

2.3 The accounting issues identified at the Firm included the following:

- No list of liabilities to clients for any date was produced by Mr Smith. It was therefore not possible to compare the total liabilities to clients with cash held on the client bank accounts.

- No client account reconciliations, cash book or client matter listings setting out the balances held for each client were produced during the investigation by Mr Smith.

- Mr Smith was unable to locate client account reconciliations for the Firm from 2016 onwards.

2.4 The indemnity insurance issues identified at the Firm included the following:

- The Firm's professional indemnity insurance policy expired on 30 September 2021. Mr Smith did not notify the SRA that he had failed to obtain indemnity insurance and the Firm had entered the Extended Indemnity Period. This was because he continually hoped he would be able to secure indemnity insurance and also feared action being taken by the SRA.

- The Firm's failure to obtain indemnity insurance meant that it had to be closed by the end of the Cessation Period, 29 December 2021. After this date, the Firm was not allowed to hold client money, to have live client matters and conduct reserved legal activities. The Firm did not properly close by 29 December 2021 because:

    i. As at that date the Firm had a client bank account balance of £5,252.10. This balance was only reduced to zero on 8 February 2022.

    ii. The Firm also had 55 live client files after 29 December 2021. Mr Smith only transferred those files to another firm on or after 28 February 2022.

3. Admissions

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

a. That by failing to keep accounting records properly written up he has:

    a. breached Rules 29.1, 29.2, 29.9 and 29.12 of the SRA Accounts Rules 2011 and Rules 8.1 and 8.3 of the SRA Accounts Rules 2019; and

    b. breached Principle 6 of the SRA Principles 2011 and Principle 2 of the SRA Principles 2019.

    b. That by failing to notify us that he failed to obtain indemnity insurance and did not cease trading by 29 December 2021 he has:

       a. breached Rules 2.2, 2.3, 2.4 and 8.1 of the SRA Indemnity Insurance Rules 2019.

4. Why a written rebuke 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 Mr Smith and the following mitigation which he has put forward:

    a. That he was experiencing financial issues at the time of the relevant conduct which resulted in him failing to obtain indemnity insurance.

    b. That he has co-operated with the SRA's investigation and took prompt steps to conclude outstanding issues following our involvement in the matter.

    c. That he has shown insight into and expressed remorse for his failings in the matter.

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

    a. There were a number of failings on the part of Mr Smith.

    b. He has shown a degree of remorse and insight.

    c. There was no client account shortage identified and no loss or lasting significant harm to clients or third parties.

    d. All outstanding issues were dealt with promptly following our involvement in the matter.

    e. Some public sanction is required to uphold public confidence in the delivery of legal services.

Other information

5. Publication

5.1 The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory and disciplinary process. Mr Smith agrees to the publication of this agreement.

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

6.1 Mr Smith agrees that he will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

6.2 If Mr Smith 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 Solicitors Disciplinary Tribunal on the original facts and allegations.

6.3 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 Principles and paragraph 7.3 of the Code of Conduct for Solicitors, RELs and RFLs.

7. Costs

7.1 Mr Smith agrees to pay the costs of the SRA's investigation in the sum of £600. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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